

29 943.0585, F.S.; conforming references to changes made by
 30 the act; providing a directive to the Division of
 31 Statutory Revision to make necessary conforming changes to
 32 the Florida Statutes; providing an effective date.

33
 34 Be It Enacted by the Legislature of the State of Florida:

35
 36 Section 1. Chapter 429, Florida Statutes, is created and
 37 shall be entitled "Assisted Care Communities."

38 Section 2. Sections 400.401, 400.402, 400.404, 400.407,
 39 400.4075, 400.408, 400.411, 400.412, 400.414, 400.415, 400.417,
 40 400.4174, 400.4176, 400.4177, 400.4178, 400.418, 400.419,
 41 400.4195, 400.42, 400.421, 400.422, 400.423, 400.424, 400.4255,
 42 400.4256, 400.426, 400.427, 400.4275, 400.428, 400.429,
 43 400.4293, 400.4294, 400.4295, 400.4296, 400.4297, 400.4298,
 44 400.431, 400.434, 400.435, 400.441, 400.422, 400.444, 400.4445,
 45 400.447, 400.449, 400.451, 400.452, 400.453, and 400.454,
 46 Florida Statutes, are renumbered as sections 429.01, 429.02,
 47 429.04, 429.07, 429.075, 429.08, 429.11, 429.12, 429.14, 429.15,
 48 429.17, 429.174, 429.176, 429.177, 429.178, 429.18, 429.19,
 49 429.195, 429.20, 429.21, 429.22, 429.23, 429.24, 429.255,
 50 429.256, 429.26, 429.27, 429.275, 429.28, 429.29, 429.293,
 51 429.294, 429.295, 429.296, 429.297, 429.298, 429.31, 429.34,
 52 429.35, 429.41, 429.42, 429.44, 429.445, 429.47, 429.49, 429.51,
 53 429.52, 429.53, and 429.54, Florida Statutes, respectively, and
 54 designated as part I of chapter 429, Florida Statutes, entitled
 55 "ASSISTED LIVING FACILITIES."

56 Section 3. Sections 400.616, 400.617, 400.618, 400.619,
 57 400.6194, 400.6196, 400.621, 400.6211, 400.622, 400.625,
 58 400.6255, 400.628, and 400.629, Florida Statutes, are renumbered
 59 as sections 429.60, 429.63, 429.65, 429.67, 429.69, 429.71,
 60 429.73, 429.75, 429.77, 429.81, 429.83, 429.85, and 429.87,
 61 Florida Statutes, respectively, and designated as part II of
 62 chapter 429, Florida Statutes, entitled "ADULT FAMILY-CARE
 63 HOMES."

64 Section 4. Sections 400.55, 400.551, 400.552, 400.553,
 65 400.554, 400.555, 400.556, 400.5565, 400.557, 400.5571,
 66 400.5572, 400.5575, 400.558, 400.559, 400.56, 400.562, 400.563,
 67 and 400.564, Florida Statutes, are renumbered as sections
 68 429.90, 429.901, 429.903, 429.905, 429.907, 429.909, 429.911,
 69 429.913, 429.915, 429.917, 429.919, 429.921, 429.923, 429.925,
 70 429.927, 429.929, 429.931, and 429.933, Florida Statutes, and
 71 designated as part III of chapter 429, Florida Statutes,
 72 entitled "ADULT DAY CARE CENTERS."

73 Section 5. Subsection (1) of section 101.655, Florida
 74 Statutes, is amended to read:

75 101.655 Supervised voting by absent electors in certain
 76 facilities.--

77 (1) The supervisor of elections of a county shall provide
 78 supervised voting for absent electors residing in any assisted
 79 living facility, as defined in s. 429.02 ~~400.402~~, or nursing
 80 home facility, as defined in s. 400.021, within that county at
 81 the request of any administrator of such a facility. Such
 82 request for supervised voting in the facility shall be made by
 83 submitting a written request to the supervisor of elections no

84 later than 21 days prior to the election for which that request
85 is submitted. The request shall specify the name and address of
86 the facility and the name of the electors who wish to vote
87 absentee in that election. If the request contains the names of
88 fewer than five voters, the supervisor of elections is not
89 required to provide supervised voting.

90 Section 6. Subsection (9) of section 189.428, Florida
91 Statutes, is amended to read:

92 189.428 Special districts; oversight review process.--

93 (9) This section does not apply to a deepwater port listed
94 in s. 311.09(1) which is in compliance with a port master plan
95 adopted pursuant to s. 163.3178(2)(k), or to an airport
96 authority operating in compliance with an airport master plan
97 approved by the Federal Aviation Administration, or to any
98 special district organized to operate health systems and
99 facilities licensed under chapter 395, ~~or~~ chapter 400, or
100 chapter 429.

101 Section 7. Paragraph (b) of subsection (2) of section
102 196.1975, Florida Statutes, is amended to read:

103 196.1975 Exemption for property used by nonprofit homes
104 for the aged.--Nonprofit homes for the aged are exempt to the
105 extent that they meet the following criteria:

106 (2) A facility will not qualify as a "home for the aged"
107 unless at least 75 percent of the occupants are over the age of
108 62 years or totally and permanently disabled. For homes for the
109 aged which are exempt from paying income taxes to the United
110 States as specified in subsection (1), licensing by the Agency

111 | for Health Care Administration is required for ad valorem tax
 112 | exemption hereunder only if the home:

113 | (b) Qualifies as an assisted living facility under ~~part~~
 114 | ~~III~~ of chapter 429 ~~400~~.

115 | Section 8. Paragraph (c) of subsection (4) of section
 116 | 202.125, Florida Statutes, is amended to read:

117 | 202.125 Sales of communications services; specified
 118 | exemptions.--

119 | (4) The sale of communications services to a home for the
 120 | aged, religious institution or educational institution that is
 121 | exempt from federal income tax under s. 501(c)(3) of the
 122 | Internal Revenue Code, or by a religious institution that is
 123 | exempt from federal income tax under s. 501(c)(3) of the
 124 | Internal Revenue Code having an established physical place for
 125 | worship at which nonprofit religious services and activities are
 126 | regularly conducted and carried on, is exempt from the taxes
 127 | imposed or administered pursuant to ss. 202.12 and 202.19. As
 128 | used in this subsection, the term:

129 | (c) "Home for the aged" includes any nonprofit
 130 | corporation:

131 | 1. In which at least 75 percent of the occupants are 62
 132 | years of age or older or totally and permanently disabled; which
 133 | qualifies for an ad valorem property tax exemption under s.
 134 | 196.196, s. 196.197, or s. 196.1975; and which is exempt from
 135 | the sales tax imposed under chapter 212.

136 | 2. Licensed as a nursing home under chapter 400 or an
 137 | assisted living facility under chapter 429 ~~400~~ and which is
 138 | exempt from the sales tax imposed under chapter 212.

139 Section 9. Section 205.1965, Florida Statutes, is amended
 140 to read:

141 205.1965 Assisted living facilities.--A county or
 142 municipality may not issue an occupational license for the
 143 operation of an assisted living facility pursuant to ~~part III of~~
 144 chapter 429 ~~400~~ without first ascertaining that the applicant
 145 has been licensed by the Agency for Health Care Administration
 146 to operate such facility at the specified location or locations.
 147 The Agency for Health Care Administration shall furnish to local
 148 agencies responsible for issuing occupational licenses
 149 sufficient instructions for making the above required
 150 determinations.

151 Section 10. Paragraph (b) of subsection (1) of section
 152 212.031, Florida Statutes, is amended to read:

153 212.031 Tax on rental or license fee for use of real
 154 property.--

155 (1)

156 (b) When a lease involves multiple use of real property
 157 wherein a part of the real property is subject to the tax
 158 herein, and a part of the property would be excluded from the
 159 tax under subparagraph (a)1., subparagraph (a)2., subparagraph
 160 (a)3., or subparagraph (a)5., the department shall determine,
 161 from the lease or license and such other information as may be
 162 available, that portion of the total rental charge which is
 163 exempt from the tax imposed by this section. The portion of the
 164 premises leased or rented by a for-profit entity providing a
 165 residential facility for the aged will be exempt on the basis of
 166 a pro rata portion calculated by combining the square footage of

167 | the areas used for residential units by the aged and for the
168 | care of such residents and dividing the resultant sum by the
169 | total square footage of the rented premises. For purposes of
170 | this section, the term "residential facility for the aged" means
171 | a facility that is licensed or certified in whole or in part
172 | under chapter 400, chapter 429, or chapter 651; or that provides
173 | residences to the elderly and is financed by a mortgage or loan
174 | made or insured by the United States Department of Housing and
175 | Urban Development under s. 202, s. 202 with a s. 8 subsidy, s.
176 | 221(d)(3) or (4), s. 232, or s. 236 of the National Housing Act;
177 | or other such similar facility that provides residences
178 | primarily for the elderly.

179 | Section 11. Paragraph (i) of subsection (7) of section
180 | 212.08, Florida Statutes, is amended to read:

181 | 212.08 Sales, rental, use, consumption, distribution, and
182 | storage tax; specified exemptions.--The sale at retail, the
183 | rental, the use, the consumption, the distribution, and the
184 | storage to be used or consumed in this state of the following
185 | are hereby specifically exempt from the tax imposed by this
186 | chapter.

187 | (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any
188 | entity by this chapter do not inure to any transaction that is
189 | otherwise taxable under this chapter when payment is made by a
190 | representative or employee of the entity by any means,
191 | including, but not limited to, cash, check, or credit card, even
192 | when that representative or employee is subsequently reimbursed
193 | by the entity. In addition, exemptions provided to any entity by
194 | this subsection do not inure to any transaction that is

195 otherwise taxable under this chapter unless the entity has
196 obtained a sales tax exemption certificate from the department
197 or the entity obtains or provides other documentation as
198 required by the department. Eligible purchases or leases made
199 with such a certificate must be in strict compliance with this
200 subsection and departmental rules, and any person who makes an
201 exempt purchase with a certificate that is not in strict
202 compliance with this subsection and the rules is liable for and
203 shall pay the tax. The department may adopt rules to administer
204 this subsection.

205 (i) Hospital meals and rooms.--Also exempt from payment of
206 the tax imposed by this chapter on rentals and meals are
207 patients and inmates of any hospital or other physical plant or
208 facility designed and operated primarily for the care of persons
209 who are ill, aged, infirm, mentally or physically incapacitated,
210 or otherwise dependent on special care or attention. Residents
211 of a home for the aged are exempt from payment of taxes on meals
212 provided through the facility. A home for the aged is defined
213 as a facility that is licensed or certified in part or in whole
214 under chapter 400, chapter 429, or chapter 651, or that is
215 financed by a mortgage loan made or insured by the United States
216 Department of Housing and Urban Development under s. 202, s. 202
217 with a s. 8 subsidy, s. 221(d)(3) or (4), s. 232, or s. 236 of
218 the National Housing Act, or other such similar facility
219 designed and operated primarily for the care of the aged.

220 Section 12. Subsection (5) of section 296.02, Florida
221 Statutes, is amended to read:

222 296.02 Definitions.--For the purposes of this part, except
223 where the context clearly indicates otherwise:

224 (5) "Extended congregate care" has the meaning given to
225 that term under s. 429.02 ~~400.402~~.

226 Section 13. Subsections (1) and (3) of section 381.0035,
227 Florida Statutes, are amended to read:

228 381.0035 Educational course on HIV and AIDS; employees and
229 clients of certain health care facilities.--

230 (1) The Department of Health shall require all employees
231 and clients of facilities licensed under chapters 393, 394, and
232 397 and employees of facilities licensed under chapter 395, and
233 parts II, ~~III~~, IV, and VI of chapter 400, and chapter 429 to
234 complete, biennially, a continuing educational course on the
235 modes of transmission, infection control procedures, clinical
236 management, and prevention of human immunodeficiency virus and
237 acquired immune deficiency syndrome with an emphasis on
238 appropriate behavior and attitude change. Such instruction shall
239 include information on current Florida law and its impact on
240 testing, confidentiality of test results, and treatment of
241 patients and any protocols and procedures applicable to human
242 immunodeficiency counseling and testing, reporting, the offering
243 of HIV testing to pregnant women, and partner notification
244 issues pursuant to ss. 381.004 and 384.25.

245 (3) Facilities licensed under chapters 393, 394, 395, and
246 397, and parts II, ~~III~~, IV, and VI of chapter 400, and chapter
247 429 shall maintain a record of employees and dates of attendance
248 at human immunodeficiency virus and acquired immune deficiency
249 syndrome educational courses.

250 Section 14. Subsection (10) of section 394.455, Florida
 251 Statutes, is amended to read:

252 394.455 Definitions.--As used in this part, unless the
 253 context clearly requires otherwise, the term:

254 (10) "Facility" means any hospital, community facility,
 255 public or private facility, or receiving or treatment facility
 256 providing for the evaluation, diagnosis, care, treatment,
 257 training, or hospitalization of persons who appear to have a
 258 mental illness or have been diagnosed as having a mental
 259 illness. "Facility" does not include any program or entity
 260 licensed pursuant to chapter 400 or chapter 429.

261 Section 15. Paragraphs (b), (c), and (e) of subsection (2)
 262 of section 394.4574, Florida Statutes, are amended to read:

263 394.4574 Department responsibilities for a mental health
 264 resident who resides in an assisted living facility that holds a
 265 limited mental health license.--

266 (2) The department must ensure that:

267 (b) A cooperative agreement, as required in s. 429.075
 268 ~~400.4075~~, is developed between the mental health care services
 269 provider that serves a mental health resident and the
 270 administrator of the assisted living facility with a limited
 271 mental health license in which the mental health resident is
 272 living. Any entity that provides Medicaid prepaid health plan
 273 services shall ensure the appropriate coordination of health
 274 care services with an assisted living facility in cases where a
 275 Medicaid recipient is both a member of the entity's prepaid
 276 health plan and a resident of the assisted living facility. If
 277 the entity is at risk for Medicaid targeted case management and

278 behavioral health services, the entity shall inform the assisted
 279 living facility of the procedures to follow should an emergent
 280 condition arise.

281 (c) The community living support plan, as defined in s.
 282 429.02 ~~400.402~~, has been prepared by a mental health resident
 283 and a mental health case manager of that resident in
 284 consultation with the administrator of the facility or the
 285 administrator's designee. The plan must be provided to the
 286 administrator of the assisted living facility with a limited
 287 mental health license in which the mental health resident lives.
 288 The support plan and the agreement may be in one document.

289 (e) The mental health services provider assigns a case
 290 manager to each mental health resident who lives in an assisted
 291 living facility with a limited mental health license. The case
 292 manager is responsible for coordinating the development of and
 293 implementation of the community living support plan defined in
 294 s. 429.02 ~~400.402~~. The plan must be updated at least annually.

295 Section 16. Paragraph (b) of subsection (2) of section
 296 394.463, Florida Statutes, is amended to read:

297 394.463 Involuntary examination.--

298 (2) INVOLUNTARY EXAMINATION.--

299 (b) A person shall not be removed from any program or
 300 residential placement licensed under chapter 400 or chapter 429
 301 and transported to a receiving facility for involuntary
 302 examination unless an ex parte order, a professional
 303 certificate, or a law enforcement officer's report is first
 304 prepared. If the condition of the person is such that
 305 preparation of a law enforcement officer's report is not

306 practicable before removal, the report shall be completed as
 307 soon as possible after removal, but in any case before the
 308 person is transported to a receiving facility. A receiving
 309 facility admitting a person for involuntary examination who is
 310 not accompanied by the required ex parte order, professional
 311 certificate, or law enforcement officer's report shall notify
 312 the Agency for Health Care Administration of such admission by
 313 certified mail no later than the next working day. The
 314 provisions of this paragraph do not apply when transportation is
 315 provided by the patient's family or guardian.

316 Section 17. Paragraph (b) of subsection (3) of section
 317 400.0063, Florida Statutes, is amended to read:

318 400.0063 Establishment of Office of State Long-Term Care
 319 Ombudsman; designation of ombudsman and legal advocate.--

320 (3)

321 (b) The duties of the legal advocate shall include, but
 322 not be limited to:

323 1. Assisting the ombudsman in carrying out the duties of
 324 the office with respect to the abuse, neglect, or violation of
 325 rights of residents of long-term care facilities.

326 2. Assisting the state and local ombudsman councils in
 327 carrying out their responsibilities under this part.

328 3. Initiating and prosecuting legal and equitable actions
 329 to enforce the rights of long-term care facility residents as
 330 defined in this chapter or chapter 429.

331 4. Serving as legal counsel to the state and local
 332 ombudsman councils, or individual members thereof, against whom
 333 any suit or other legal action is initiated in connection with

334 the performance of the official duties of the councils or an
 335 individual member.

336 Section 18. Subsection (3) of section 400.0069, Florida
 337 Statutes, is amended to read:

338 400.0069 Local long-term care ombudsman councils; duties;
 339 membership.--

340 (3) In order to carry out the duties specified in
 341 subsection (2), the local ombudsman council is authorized,
 342 pursuant to ss. 400.19(1) and 429.34 ~~400.434~~, to enter any long-
 343 term care facility without notice or first obtaining a warrant,
 344 subject to the provisions of s. 400.0073(5).

345 Section 19. Paragraphs (c) and (f) of subsection (5) and
 346 subsection (6) of section 400.0073, Florida Statutes, are
 347 amended to read:

348 400.0073 State and local ombudsman council
 349 investigations.--

350 (5) Any onsite administrative inspection conducted by an
 351 ombudsman council shall be subject to the following:

352 (c) Inspections shall be conducted in a manner which will
 353 impose no unreasonable burden on nursing homes or long-term care
 354 facilities, consistent with the underlying purposes of this part
 355 and chapter 429. Unnecessary duplication of efforts among
 356 council members or the councils shall be reduced to the extent
 357 possible.

358 (f) All inspections shall be limited to compliance with
 359 part ~~parts II, III, and VII~~ of this chapter, chapter 429, and 42
 360 U.S.C. ss. 1396(a) et seq., and any rules or regulations
 361 promulgated pursuant to such laws.

362 (6) An inspection may not be accomplished by forcible
 363 entry. Refusal of a long-term care facility to allow entry of
 364 any ombudsman council member constitutes a violation of part II,
 365 ~~part III, or part VII~~ of this chapter or chapter 429.

366 Section 20. Subsection (4) of section 400.0077, Florida
 367 Statutes, is amended to read:

368 400.0077 Confidentiality.--

369 (4) Members of any state or local ombudsman council shall
 370 not be required to testify in any court with respect to matters
 371 held to be confidential under s. 429.14 ~~400.414~~ except as may be
 372 necessary to enforce the provisions of this act.

373 Section 21. Subsection (1) of section 400.0239, Florida
 374 Statutes, is amended to read:

375 400.0239 Quality of Long-Term Care Facility Improvement
 376 Trust Fund.--

377 (1) There is created within the Agency for Health Care
 378 Administration a Quality of Long-Term Care Facility Improvement
 379 Trust Fund to support activities and programs directly related
 380 to improvement of the care of nursing home and assisted living
 381 facility residents. The trust fund shall be funded through
 382 proceeds generated pursuant to ss. 400.0238 and 429.298
 383 ~~400.4298~~, through funds specifically appropriated by the
 384 Legislature, through gifts, endowments, and other charitable
 385 contributions allowed under federal and state law, and through
 386 federal nursing home civil monetary penalties collected by the
 387 Centers for Medicare and Medicaid Services and returned to the
 388 state. These funds must be utilized in accordance with federal
 389 requirements.

390 Section 22. Subsections (1) and (4) of section 400.119,
 391 Florida Statutes, are amended to read:

392 400.119 Confidentiality of records and meetings of risk
 393 management and quality assurance committees.--

394 (1) Records of meetings of the risk management and quality
 395 assurance committee of a long-term care facility licensed under
 396 this part or ~~part III of this~~ chapter 429, as well as incident
 397 reports filed with the facility's risk manager and
 398 administrator, notifications of the occurrence of an adverse
 399 incident, and adverse incident reports from the facility are
 400 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 401 of the State Constitution. However, if the Agency for Health
 402 Care Administration has a reasonable belief that conduct by a
 403 staff member or employee of a facility is criminal activity or
 404 grounds for disciplinary action by a regulatory board, the
 405 agency may disclose such records to the appropriate law
 406 enforcement agency or regulatory board.

407 (4) The meetings of an internal risk management and
 408 quality assurance committee of a long-term care facility
 409 licensed under this part or ~~part III of this~~ chapter 429 are
 410 exempt from s. 286.011 and s. 24(b), Art. I of the State
 411 Constitution and are not open to the public.

412 Section 23. Subsections (4) and (7) of section 400.141,
 413 Florida Statutes, are amended to read:

414 400.141 Administration and management of nursing home
 415 facilities.--Every licensed facility shall comply with all
 416 applicable standards and rules of the agency and shall:

417 (4) Provide for resident use of a community pharmacy as
418 specified in s. 400.022(1)(q). Any other law to the contrary
419 notwithstanding, a registered pharmacist licensed in Florida,
420 that is under contract with a facility licensed under this
421 chapter or chapter 429, shall repackage a nursing facility
422 resident's bulk prescription medication which has been packaged
423 by another pharmacist licensed in any state in the United States
424 into a unit dose system compatible with the system used by the
425 nursing facility, if the pharmacist is requested to offer such
426 service. In order to be eligible for the repackaging, a resident
427 or the resident's spouse must receive prescription medication
428 benefits provided through a former employer as part of his or
429 her retirement benefits, a qualified pension plan as specified
430 in s. 4972 of the Internal Revenue Code, a federal retirement
431 program as specified under 5 C.F.R. s. 831, or a long-term care
432 policy as defined in s. 627.9404(1). A pharmacist who correctly
433 repackages and relabels the medication and the nursing facility
434 which correctly administers such repackaged medication under the
435 provisions of this subsection shall not be held liable in any
436 civil or administrative action arising from the repackaging. In
437 order to be eligible for the repackaging, a nursing facility
438 resident for whom the medication is to be repackaged shall sign
439 an informed consent form provided by the facility which includes
440 an explanation of the repackaging process and which notifies the
441 resident of the immunities from liability provided herein. A
442 pharmacist who repackages and relabels prescription medications,
443 as authorized under this subsection, may charge a reasonable fee
444 for costs resulting from the implementation of this provision.

445 (7) If the facility has a standard license or is a Gold
446 Seal facility, exceeds the minimum required hours of licensed
447 nursing and certified nursing assistant direct care per resident
448 per day, and is part of a continuing care facility licensed
449 under chapter 651 or a retirement community that offers other
450 services pursuant to ~~part III,~~ part IV, or part V of this
451 chapter or chapter 429 on a single campus, be allowed to share
452 programming and staff. At the time of inspection and in the
453 semiannual report required pursuant to subsection (15), a
454 continuing care facility or retirement community that uses this
455 option must demonstrate through staffing records that minimum
456 staffing requirements for the facility were met. Licensed nurses
457 and certified nursing assistants who work in the nursing home
458 facility may be used to provide services elsewhere on campus if
459 the facility exceeds the minimum number of direct care hours
460 required per resident per day and the total number of residents
461 receiving direct care services from a licensed nurse or a
462 certified nursing assistant does not cause the facility to
463 violate the staffing ratios required under s. 400.23(3)(a).
464 Compliance with the minimum staffing ratios shall be based on
465 total number of residents receiving direct care services,
466 regardless of where they reside on campus. If the facility
467 receives a conditional license, it may not share staff until the
468 conditional license status ends. This subsection does not
469 restrict the agency's authority under federal or state law to
470 require additional staff if a facility is cited for deficiencies
471 in care which are caused by an insufficient number of certified
472 nursing assistants or licensed nurses. The agency may adopt

473 rules for the documentation necessary to determine compliance
474 with this provision.

475
476 Facilities that have been awarded a Gold Seal under the program
477 established in s. 400.235 may develop a plan to provide
478 certified nursing assistant training as prescribed by federal
479 regulations and state rules and may apply to the agency for
480 approval of their program.

481 Section 24. Subsection (1) of section 400.142, Florida
482 Statutes, is amended to read:

483 400.142 Emergency medication kits; orders not to
484 resuscitate.--

485 (1) Other provisions of this chapter or of chapter 429,
486 chapter 465, chapter 499, or chapter 893 to the contrary
487 notwithstanding, each nursing home operating pursuant to a
488 license issued by the agency may maintain an emergency
489 medication kit for the purpose of storing medicinal drugs to be
490 administered under emergency conditions to residents residing in
491 such facility.

492 Section 25. Paragraph (a) of subsection (2) of section
493 400.191, Florida Statutes, is amended to read:

494 400.191 Availability, distribution, and posting of reports
495 and records.--

496 (2) The agency shall provide additional information in
497 consumer-friendly printed and electronic formats to assist
498 consumers and their families in comparing and evaluating nursing
499 home facilities.

500 (a) The agency shall provide an Internet site which shall
501 include at least the following information either directly or
502 indirectly through a link to another established site or sites
503 of the agency's choosing:

504 1. A list by name and address of all nursing home
505 facilities in this state.

506 2. Whether such nursing home facilities are proprietary or
507 nonproprietary.

508 3. The current owner of the facility's license and the
509 year that that entity became the owner of the license.

510 4. The name of the owner or owners of each facility and
511 whether the facility is affiliated with a company or other
512 organization owning or managing more than one nursing facility
513 in this state.

514 5. The total number of beds in each facility.

515 6. The number of private and semiprivate rooms in each
516 facility.

517 7. The religious affiliation, if any, of each facility.

518 8. The languages spoken by the administrator and staff of
519 each facility.

520 9. Whether or not each facility accepts Medicare or
521 Medicaid recipients or insurance, health maintenance
522 organization, Veterans Administration, CHAMPUS program, or
523 workers' compensation coverage.

524 10. Recreational and other programs available at each
525 facility.

526 11. Special care units or programs offered at each
527 facility.

528 12. Whether the facility is a part of a retirement
529 community that offers other services pursuant to ~~part III~~, part
530 IV, or part V of this chapter or chapter 429.

531 13. Survey and deficiency information contained on the
532 Online Survey Certification and Reporting (OSCAR) system of the
533 federal Health Care Financing Administration, including annual
534 survey, revisit, and complaint survey information, for each
535 facility for the past 45 months. For noncertified nursing
536 homes, state survey and deficiency information, including annual
537 survey, revisit, and complaint survey information for the past
538 45 months shall be provided.

539 14. A summary of the Online Survey Certification and
540 Reporting (OSCAR) data for each facility over the past 45
541 months. Such summary may include a score, rating, or comparison
542 ranking with respect to other facilities based on the number of
543 citations received by the facility of annual, revisit, and
544 complaint surveys; the severity and scope of the citations; and
545 the number of annual recertification surveys the facility has
546 had during the past 45 months. The score, rating, or comparison
547 ranking may be presented in either numeric or symbolic form for
548 the intended consumer audience.

549 Section 26. Paragraph (b) of subsection (2) of section
550 400.215, Florida Statutes, is amended to read:

551 400.215 Personnel screening requirement.--

552 (2) Employers and employees shall comply with the
553 requirements of s. 435.05.

554 (b) Employees qualified under the provisions of paragraph
555 (a) who have not maintained continuous residency within the

556 state for the 5 years immediately preceding the date of request
557 for background screening must complete level 2 screening, as
558 provided in chapter 435. Such employees may work in a
559 conditional status up to 180 days pending the receipt of written
560 findings evidencing the completion of level 2 screening. Level 2
561 screening shall not be required of employees or prospective
562 employees who attest in writing under penalty of perjury that
563 they meet the residency requirement. Completion of level 2
564 screening shall require the employee or prospective employee to
565 furnish to the nursing facility a full set of fingerprints to
566 enable a criminal background investigation to be conducted. The
567 nursing facility shall submit the completed fingerprint card to
568 the agency. The agency shall establish a record of the request
569 in the database provided for in paragraph (c) and forward the
570 request to the Department of Law Enforcement, which is
571 authorized to submit the fingerprints to the Federal Bureau of
572 Investigation for a national criminal history records check. The
573 results of the national criminal history records check shall be
574 returned to the agency, which shall maintain the results in the
575 database provided for in paragraph (c). The agency shall notify
576 the administrator of the requesting nursing facility or the
577 administrator of any other facility licensed under chapter 393,
578 chapter 394, chapter 395, chapter 397, chapter 429, or this
579 chapter, as requested by such facility, as to whether or not the
580 employee has qualified under level 1 or level 2 screening. An
581 employee or prospective employee who has qualified under level 2
582 screening and has maintained such continuous residency within

583 | the state shall not be required to complete a subsequent level 2
 584 | screening as a condition of employment at another facility.

585 | Section 27. Paragraph (f) of subsection (2) of section
 586 | 400.23, Florida Statutes, is amended to read:

587 | 400.23 Rules; evaluation and deficiencies; licensure
 588 | status.--

589 | (2) Pursuant to the intention of the Legislature, the
 590 | agency, in consultation with the Department of Health and the
 591 | Department of Elderly Affairs, shall adopt and enforce rules to
 592 | implement this part, which shall include reasonable and fair
 593 | criteria in relation to:

594 | (f) The care, treatment, and maintenance of residents and
 595 | measurement of the quality and adequacy thereof, based on rules
 596 | developed under this chapter or chapter 429 and the Omnibus
 597 | Budget Reconciliation Act of 1987 (Pub. L. No. 100-203)
 598 | (December 22, 1987), Title IV (Medicare, Medicaid, and Other
 599 | Health-Related Programs), Subtitle C (Nursing Home Reform), as
 600 | amended.

601 | Section 28. Section 400.232, Florida Statutes, is amended
 602 | to read:

603 | 400.232 Review and approval of plans; fees and costs.--The
 604 | design, construction, erection, alteration, modification,
 605 | repair, and demolition of all public and private health care
 606 | facilities are governed by the Florida Building Code and the
 607 | Florida Fire Prevention Code under ss. 553.73 and 633.022. In
 608 | addition to the requirements of ss. 553.79 and 553.80, the
 609 | agency shall review the facility plans and survey the

610 construction of facilities licensed under this chapter or
611 chapter 429.

612 (1) The agency shall approve or disapprove the plans and
613 specifications within 60 days after receipt of the final plans
614 and specifications. The agency may be granted one 15-day
615 extension for the review period, if the director of the agency
616 so approves. If the agency fails to act within the specified
617 time, it shall be deemed to have approved the plans and
618 specifications. When the agency disapproves plans and
619 specifications, it shall set forth in writing the reasons for
620 disapproval. Conferences and consultations may be provided as
621 necessary.

622 (2) The agency is authorized to charge an initial fee of
623 \$2,000 for review of plans and construction on all projects, no
624 part of which is refundable. The agency may also collect a fee,
625 not to exceed 1 percent of the estimated construction cost or
626 the actual cost of review, whichever is less, for the portion of
627 the review which encompasses initial review through the initial
628 revised construction document review. The agency is further
629 authorized to collect its actual costs on all subsequent
630 portions of the review and construction inspections. Initial
631 fee payment shall accompany the initial submission of plans and
632 specifications. Any subsequent payment that is due is payable
633 upon receipt of the invoice from the agency. Notwithstanding any
634 other provisions of law to the contrary, all money received by
635 the agency pursuant to the provisions of this section shall be
636 deemed to be trust funds, to be held and applied solely for the
637 operations required under this section.

638 Section 29. Section 400.401, Florida Statutes, is
639 renumbered as section 429.01, Florida Statutes, and subsection
640 (3) is amended to read:

641 429.01 ~~400.401~~ Popular name ~~Short title~~; purpose.--

642 (3) The principle that a license issued under this chapter
643 ~~part~~ is a public trust and a privilege and is not an entitlement
644 should guide the finder of fact or trier of law at any
645 administrative proceeding or in a court action initiated by the
646 Agency for Health Care Administration to enforce this chapter
647 ~~part~~.

648 Section 30. Section 400.402, Florida Statutes, is
649 renumbered as section 429.02, Florida Statutes, and amended to
650 read:

651 429.02 ~~400.402~~ Definitions.--When used in this chapter
652 ~~part~~, the term:

653 (1) "Activities of daily living" means functions and tasks
654 for self-care, including ambulation, bathing, dressing, eating,
655 grooming, and toileting, and other similar tasks.

656 (2) "Administrator" means an individual at least 21 years
657 of age who is responsible for the operation and maintenance of
658 an assisted living facility.

659 (3) "Agency" means the Agency for Health Care
660 Administration.

661 (4) "Aging in place" or "age in place" means the process
662 of providing increased or adjusted services to a person to
663 compensate for the physical or mental decline that may occur
664 with the aging process, in order to maximize the person's
665 dignity and independence and permit them to remain in a

666 familiar, noninstitutional, residential environment for as long
667 as possible. Such services may be provided by facility staff,
668 volunteers, family, or friends, or through contractual
669 arrangements with a third party.

670 (5) "Applicant" means an individual owner, corporation,
671 partnership, firm, association, or governmental entity that
672 applies for a license.

673 (6) "Assisted living facility" means any building or
674 buildings, section or distinct part of a building, private home,
675 boarding home, home for the aged, or other residential facility,
676 whether operated for profit or not, which undertakes through its
677 ownership or management to provide housing, meals, and one or
678 more personal services for a period exceeding 24 hours to one or
679 more adults who are not relatives of the owner or administrator.

680 (7) "Chemical restraint" means a pharmacologic drug that
681 physically limits, restricts, or deprives an individual of
682 movement or mobility, and is used for discipline or convenience
683 and not required for the treatment of medical symptoms.

684 (8) "Community living support plan" means a written
685 document prepared by a mental health resident and the resident's
686 mental health case manager in consultation with the
687 administrator of an assisted living facility with a limited
688 mental health license or the administrator's designee. A copy
689 must be provided to the administrator. The plan must include
690 information about the supports, services, and special needs of
691 the resident which enable the resident to live in the assisted
692 living facility and a method by which facility staff can

693 recognize and respond to the signs and symptoms particular to
694 that resident which indicate the need for professional services.

695 (9) "Cooperative agreement" means a written statement of
696 understanding between a mental health care provider and the
697 administrator of the assisted living facility with a limited
698 mental health license in which a mental health resident is
699 living. The agreement must specify directions for accessing
700 emergency and after-hours care for the mental health resident. A
701 single cooperative agreement may service all mental health
702 residents who are clients of the same mental health care
703 provider.

704 (10) "Department" means the Department of Elderly Affairs.

705 (11) "Emergency" means a situation, physical condition, or
706 method of operation which presents imminent danger of death or
707 serious physical or mental harm to facility residents.

708 (12) "Extended congregate care" means acts beyond those
709 authorized in subsection (17) that may be performed pursuant to
710 part I of chapter 464 by persons licensed thereunder while
711 carrying out their professional duties, and other supportive
712 services which may be specified by rule. The purpose of such
713 services is to enable residents to age in place in a residential
714 environment despite mental or physical limitations that might
715 otherwise disqualify them from residency in a facility licensed
716 under this chapter ~~part~~.

717 (13) "Guardian" means a person to whom the law has
718 entrusted the custody and control of the person or property, or
719 both, of a person who has been legally adjudged incapacitated.

720 (14) "Limited nursing services" means acts that may be
721 performed pursuant to part I of chapter 464 by persons licensed
722 thereunder while carrying out their professional duties but
723 limited to those acts which the department specifies by rule.
724 Acts which may be specified by rule as allowable limited nursing
725 services shall be for persons who meet the admission criteria
726 established by the department for assisted living facilities and
727 shall not be complex enough to require 24-hour nursing
728 supervision and may include such services as the application and
729 care of routine dressings, and care of casts, braces, and
730 splints.

731 (15) "Managed risk" means the process by which the
732 facility staff discuss the service plan and the needs of the
733 resident with the resident and, if applicable, the resident's
734 representative or designee or the resident's surrogate,
735 guardian, or attorney in fact, in such a way that the
736 consequences of a decision, including any inherent risk, are
737 explained to all parties and reviewed periodically in
738 conjunction with the service plan, taking into account changes
739 in the resident's status and the ability of the facility to
740 respond accordingly.

741 (16) "Mental health resident" means an individual who
742 receives social security disability income due to a mental
743 disorder as determined by the Social Security Administration or
744 receives supplemental security income due to a mental disorder
745 as determined by the Social Security Administration and receives
746 optional state supplementation.

747 (17) "Personal services" means direct physical assistance
748 with or supervision of the activities of daily living and the
749 self-administration of medication and other similar services
750 which the department may define by rule. "Personal services"
751 shall not be construed to mean the provision of medical,
752 nursing, dental, or mental health services.

753 (18) "Physical restraint" means a device which physically
754 limits, restricts, or deprives an individual of movement or
755 mobility, including, but not limited to, a half-bed rail, a
756 full-bed rail, a geriatric chair, and a posey restraint. The
757 term "physical restraint" shall also include any device which
758 was not specifically manufactured as a restraint but which has
759 been altered, arranged, or otherwise used for this purpose. The
760 term shall not include bandage material used for the purpose of
761 binding a wound or injury.

762 (19) "Relative" means an individual who is the father,
763 mother, stepfather, stepmother, son, daughter, brother, sister,
764 grandmother, grandfather, great-grandmother, great-grandfather,
765 grandson, granddaughter, uncle, aunt, first cousin, nephew,
766 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
767 daughter-in-law, brother-in-law, sister-in-law, stepson,
768 stepdaughter, stepbrother, stepsister, half brother, or half
769 sister of an owner or administrator.

770 (20) "Resident" means a person 18 years of age or older,
771 residing in and receiving care from a facility.

772 (21) "Resident's representative or designee" means a
773 person other than the owner, or an agent or employee of the
774 facility, designated in writing by the resident, if legally

775 competent, to receive notice of changes in the contract executed
 776 pursuant to s. 429.24 ~~400.424~~; to receive notice of and to
 777 participate in meetings between the resident and the facility
 778 owner, administrator, or staff concerning the rights of the
 779 resident; to assist the resident in contacting the ombudsman
 780 council if the resident has a complaint against the facility; or
 781 to bring legal action on behalf of the resident pursuant to s.
 782 400.429.

783 (22) "Service plan" means a written plan, developed and
 784 agreed upon by the resident and, if applicable, the resident's
 785 representative or designee or the resident's surrogate,
 786 guardian, or attorney in fact, if any, and the administrator or
 787 designee representing the facility, which addresses the unique
 788 physical and psychosocial needs, abilities, and personal
 789 preferences of each resident receiving extended congregate care
 790 services. The plan shall include a brief written description, in
 791 easily understood language, of what services shall be provided,
 792 who shall provide the services, when the services shall be
 793 rendered, and the purposes and benefits of the services.

794 (23) "Shared responsibility" means exploring the options
 795 available to a resident within a facility and the risks involved
 796 with each option when making decisions pertaining to the
 797 resident's abilities, preferences, and service needs, thereby
 798 enabling the resident and, if applicable, the resident's
 799 representative or designee, or the resident's surrogate,
 800 guardian, or attorney in fact, and the facility to develop a
 801 service plan which best meets the resident's needs and seeks to
 802 improve the resident's quality of life.

803 (24) "Supervision" means reminding residents to engage in
 804 activities of daily living and the self-administration of
 805 medication, and, when necessary, observing or providing verbal
 806 cuing to residents while they perform these activities.

807 (25) "Supplemental security income," Title XVI of the
 808 Social Security Act, means a program through which the Federal
 809 Government guarantees a minimum monthly income to every person
 810 who is age 65 or older, or disabled, or blind and meets the
 811 income and asset requirements.

812 (26) "Supportive services" means services designed to
 813 encourage and assist aged persons or adults with disabilities to
 814 remain in the least restrictive living environment and to
 815 maintain their independence as long as possible.

816 (27) "Twenty-four-hour nursing supervision" means services
 817 that are ordered by a physician for a resident whose condition
 818 requires the supervision of a physician and continued monitoring
 819 of vital signs and physical status. Such services shall be:
 820 medically complex enough to require constant supervision,
 821 assessment, planning, or intervention by a nurse; required to be
 822 performed by or under the direct supervision of licensed nursing
 823 personnel or other professional personnel for safe and effective
 824 performance; required on a daily basis; and consistent with the
 825 nature and severity of the resident's condition or the disease
 826 state or stage.

827 Section 31. Section 400.404, Florida Statutes, is
 828 renumbered as section 429.04, Florida Statutes, and amended to
 829 read:

830 429.04 ~~400.404~~ Facilities to be licensed; exemptions.--

831 (1) For the administration of this chapter part,
 832 facilities to be licensed by the agency shall include all
 833 assisted living facilities as defined in this chapter part.

834 (2) The following are exempt from licensure under this
 835 chapter part:

836 (a) Any facility, institution, or other place operated by
 837 the Federal Government or any agency of the Federal Government.

838 (b) Any facility or part of a facility licensed under
 839 chapter 393 or chapter 394.

840 (c) Any facility licensed as an adult family-care home
 841 under part VII of chapter 400.

842 (d) Any person who provides housing, meals, and one or
 843 more personal services on a 24-hour basis in the person's own
 844 home to not more than two adults who do not receive optional
 845 state supplementation. The person who provides the housing,
 846 meals, and personal services must own or rent the home and
 847 reside therein.

848 (e) Any home or facility approved by the United States
 849 Department of Veterans Affairs as a residential care home
 850 wherein care is provided exclusively to three or fewer veterans.

851 (f) Any facility that has been incorporated in this state
 852 for 50 years or more on or before July 1, 1983, and the board of
 853 directors of which is nominated or elected by the residents,
 854 until the facility is sold or its ownership is transferred; or
 855 any facility, with improvements or additions thereto, which has
 856 existed and operated continuously in this state for 60 years or
 857 more on or before July 1, 1989, is directly or indirectly owned
 858 and operated by a nationally recognized fraternal organization,

859 | is not open to the public, and accepts only its own members and
 860 | their spouses as residents.

861 | (g) Any facility certified under chapter 651, or a
 862 | retirement community, may provide services authorized under this
 863 | chapter part or part IV of ~~this~~ chapter 400 to its residents who
 864 | live in single-family homes, duplexes, quadruplexes, or
 865 | apartments located on the campus without obtaining a license to
 866 | operate an assisted living facility if residential units within
 867 | such buildings are used by residents who do not require staff
 868 | supervision for that portion of the day when personal services
 869 | are not being delivered and the owner obtains a home health
 870 | license to provide such services. However, any building or
 871 | distinct part of a building on the campus that is designated for
 872 | persons who receive personal services and require supervision
 873 | beyond that which is available while such services are being
 874 | rendered must be licensed in accordance with this chapter part.
 875 | If a facility provides personal services to residents who do not
 876 | otherwise require supervision and the owner is not licensed as a
 877 | home health agency, the buildings or distinct parts of buildings
 878 | where such services are rendered must be licensed under this
 879 | chapter part. A resident of a facility that obtains a home
 880 | health license may contract with a home health agency of his or
 881 | her choice, provided that the home health agency provides
 882 | liability insurance and workers' compensation coverage for its
 883 | employees. Facilities covered by this exemption may establish
 884 | policies that give residents the option of contracting for
 885 | services and care beyond that which is provided by the facility
 886 | to enable them to age in place. For purposes of this section, a

887 retirement community consists of a facility licensed under this
 888 chapter part or under part II of chapter 400, and apartments
 889 designed for independent living located on the same campus.

890 (h) Any residential unit for independent living which is
 891 located within a facility certified under chapter 651, or any
 892 residential unit which is colocated with a nursing home licensed
 893 under part II of chapter 400 or colocated with a facility
 894 licensed under this chapter part in which services are provided
 895 through an outpatient clinic or a nursing home on an outpatient
 896 basis.

897 Section 32. Section 400.407, Florida Statutes, is
 898 renumbered as section 429.07, Florida Statutes, and paragraphs
 899 (a), (b), and (c) of subsection (3), paragraphs (b) and (c) of
 900 subsection (4), and subsection (5) are amended to read:

901 429.07 ~~400.407~~ License required; fee, display.--

902 (3) Any license granted by the agency must state the
 903 maximum resident capacity of the facility, the type of care for
 904 which the license is granted, the date the license is issued,
 905 the expiration date of the license, and any other information
 906 deemed necessary by the agency. Licenses shall be issued for one
 907 or more of the following categories of care: standard, extended
 908 congregate care, limited nursing services, or limited mental
 909 health.

910 (a) A standard license shall be issued to facilities
 911 providing one or more of the personal services identified in s.
 912 429.02 ~~400.402~~. Such facilities may also employ or contract with
 913 a person licensed under part I of chapter 464 to administer

914 medications and perform other tasks as specified in s. 429.255
915 ~~400.4255~~.

916 (b) An extended congregate care license shall be issued to
917 facilities providing, directly or through contract, services
918 beyond those authorized in paragraph (a), including acts
919 performed pursuant to part I of chapter 464 by persons licensed
920 thereunder, and supportive services defined by rule to persons
921 who otherwise would be disqualified from continued residence in
922 a facility licensed under this chapter ~~part~~.

923 1. In order for extended congregate care services to be
924 provided in a facility licensed under this chapter ~~part~~, the
925 agency must first determine that all requirements established in
926 law and rule are met and must specifically designate, on the
927 facility's license, that such services may be provided and
928 whether the designation applies to all or part of a facility.
929 Such designation may be made at the time of initial licensure or
930 relicensure, or upon request in writing by a licensee under this
931 chapter ~~part~~. Notification of approval or denial of such request
932 shall be made within 90 days after receipt of such request and
933 all necessary documentation. Existing facilities qualifying to
934 provide extended congregate care services must have maintained a
935 standard license and may not have been subject to administrative
936 sanctions during the previous 2 years, or since initial
937 licensure if the facility has been licensed for less than 2
938 years, for any of the following reasons:

- 939 a. A class I or class II violation;
- 940 b. Three or more repeat or recurring class III violations
- 941 of identical or similar resident care standards as specified in

942 rule from which a pattern of noncompliance is found by the
943 agency;

944 c. Three or more class III violations that were not
945 corrected in accordance with the corrective action plan approved
946 by the agency;

947 d. Violation of resident care standards resulting in a
948 requirement to employ the services of a consultant pharmacist or
949 consultant dietitian;

950 e. Denial, suspension, or revocation of a license for
951 another facility under this chapter ~~part~~ in which the applicant
952 for an extended congregate care license has at least 25 percent
953 ownership interest; or

954 f. Imposition of a moratorium on admissions or initiation
955 of injunctive proceedings.

956 2. Facilities that are licensed to provide extended
957 congregate care services shall maintain a written progress
958 report on each person who receives such services, which report
959 describes the type, amount, duration, scope, and outcome of
960 services that are rendered and the general status of the
961 resident's health. A registered nurse, or appropriate designee,
962 representing the agency shall visit such facilities at least
963 quarterly to monitor residents who are receiving extended
964 congregate care services and to determine if the facility is in
965 compliance with this chapter ~~part~~ and with rules that relate to
966 extended congregate care. One of these visits may be in
967 conjunction with the regular survey. The monitoring visits may
968 be provided through contractual arrangements with appropriate
969 community agencies. A registered nurse shall serve as part of

970 the team that inspects such facility. The agency may waive one
971 of the required yearly monitoring visits for a facility that has
972 been licensed for at least 24 months to provide extended
973 congregate care services, if, during the inspection, the
974 registered nurse determines that extended congregate care
975 services are being provided appropriately, and if the facility
976 has no class I or class II violations and no uncorrected class
977 III violations. Before such decision is made, the agency shall
978 consult with the long-term care ombudsman council for the area
979 in which the facility is located to determine if any complaints
980 have been made and substantiated about the quality of services
981 or care. The agency may not waive one of the required yearly
982 monitoring visits if complaints have been made and
983 substantiated.

984 3. Facilities that are licensed to provide extended
985 congregate care services shall:

986 a. Demonstrate the capability to meet unanticipated
987 resident service needs.

988 b. Offer a physical environment that promotes a homelike
989 setting, provides for resident privacy, promotes resident
990 independence, and allows sufficient congregate space as defined
991 by rule.

992 c. Have sufficient staff available, taking into account
993 the physical plant and firesafety features of the building, to
994 assist with the evacuation of residents in an emergency, as
995 necessary.

996 d. Adopt and follow policies and procedures that maximize
997 resident independence, dignity, choice, and decisionmaking to

998 permit residents to age in place to the extent possible, so that
 999 moves due to changes in functional status are minimized or
 1000 avoided.

1001 e. Allow residents or, if applicable, a resident's
 1002 representative, designee, surrogate, guardian, or attorney in
 1003 fact to make a variety of personal choices, participate in
 1004 developing service plans, and share responsibility in
 1005 decisionmaking.

1006 f. Implement the concept of managed risk.

1007 g. Provide, either directly or through contract, the
 1008 services of a person licensed pursuant to part I of chapter 464.

1009 h. In addition to the training mandated in s. 429.52
 1010 ~~400.452~~, provide specialized training as defined by rule for
 1011 facility staff.

1012 4. Facilities licensed to provide extended congregate care
 1013 services are exempt from the criteria for continued residency as
 1014 set forth in rules adopted under s. 429.41 ~~400.441~~. Facilities
 1015 so licensed shall adopt their own requirements within guidelines
 1016 for continued residency set forth by the department in rule.
 1017 However, such facilities may not serve residents who require 24-
 1018 hour nursing supervision. Facilities licensed to provide
 1019 extended congregate care services shall provide each resident
 1020 with a written copy of facility policies governing admission and
 1021 retention.

1022 5. The primary purpose of extended congregate care
 1023 services is to allow residents, as they become more impaired,
 1024 the option of remaining in a familiar setting from which they
 1025 would otherwise be disqualified for continued residency. A

1026 facility licensed to provide extended congregate care services
1027 may also admit an individual who exceeds the admission criteria
1028 for a facility with a standard license, if the individual is
1029 determined appropriate for admission to the extended congregate
1030 care facility.

1031 6. Before admission of an individual to a facility
1032 licensed to provide extended congregate care services, the
1033 individual must undergo a medical examination as provided in s.
1034 429.26 ~~400.426~~(4) and the facility must develop a preliminary
1035 service plan for the individual.

1036 7. When a facility can no longer provide or arrange for
1037 services in accordance with the resident's service plan and
1038 needs and the facility's policy, the facility shall make
1039 arrangements for relocating the person in accordance with s.
1040 429.28 ~~400.428~~(1)(k).

1041 8. Failure to provide extended congregate care services
1042 may result in denial of extended congregate care license
1043 renewal.

1044 9. No later than January 1 of each year, the department,
1045 in consultation with the agency, shall prepare and submit to the
1046 Governor, the President of the Senate, the Speaker of the House
1047 of Representatives, and the chairs of appropriate legislative
1048 committees, a report on the status of, and recommendations
1049 related to, extended congregate care services. The status report
1050 must include, but need not be limited to, the following
1051 information:

- 1052 a. A description of the facilities licensed to provide
 1053 such services, including total number of beds licensed under
 1054 this chapter ~~part~~.
- 1055 b. The number and characteristics of residents receiving
 1056 such services.
- 1057 c. The types of services rendered that could not be
 1058 provided through a standard license.
- 1059 d. An analysis of deficiencies cited during licensure
 1060 inspections.
- 1061 e. The number of residents who required extended
 1062 congregate care services at admission and the source of
 1063 admission.
- 1064 f. Recommendations for statutory or regulatory changes.
- 1065 g. The availability of extended congregate care to state
 1066 clients residing in facilities licensed under this chapter ~~part~~
 1067 and in need of additional services, and recommendations for
 1068 appropriations to subsidize extended congregate care services
 1069 for such persons.
- 1070 h. Such other information as the department considers
 1071 appropriate.
- 1072 (c) A limited nursing services license shall be issued to
 1073 a facility that provides services beyond those authorized in
 1074 paragraph (a) and as specified in this paragraph.
- 1075 1. In order for limited nursing services to be provided in
 1076 a facility licensed under this chapter ~~part~~, the agency must
 1077 first determine that all requirements established in law and
 1078 rule are met and must specifically designate, on the facility's
 1079 license, that such services may be provided. Such designation

1080 may be made at the time of initial licensure or relicensure, or
1081 upon request in writing by a licensee under this chapter part.
1082 Notification of approval or denial of such request shall be made
1083 within 90 days after receipt of such request and all necessary
1084 documentation. Existing facilities qualifying to provide limited
1085 nursing services shall have maintained a standard license and
1086 may not have been subject to administrative sanctions that
1087 affect the health, safety, and welfare of residents for the
1088 previous 2 years or since initial licensure if the facility has
1089 been licensed for less than 2 years.

1090 2. Facilities that are licensed to provide limited nursing
1091 services shall maintain a written progress report on each person
1092 who receives such nursing services, which report describes the
1093 type, amount, duration, scope, and outcome of services that are
1094 rendered and the general status of the resident's health. A
1095 registered nurse representing the agency shall visit such
1096 facilities at least twice a year to monitor residents who are
1097 receiving limited nursing services and to determine if the
1098 facility is in compliance with applicable provisions of this
1099 chapter part and with related rules. The monitoring visits may
1100 be provided through contractual arrangements with appropriate
1101 community agencies. A registered nurse shall also serve as part
1102 of the team that inspects such facility.

1103 3. A person who receives limited nursing services under
1104 this chapter part must meet the admission criteria established
1105 by the agency for assisted living facilities. When a resident
1106 no longer meets the admission criteria for a facility licensed
1107 under this chapter part, arrangements for relocating the person

1108 shall be made in accordance with s. 429.28 ~~400.428~~(1)(k), unless
 1109 the facility is licensed to provide extended congregate care
 1110 services.

1111 (4)

1112 (b) In addition to the total fee assessed under paragraph
 1113 (a), the agency shall require facilities that are licensed to
 1114 provide extended congregate care services under this chapter
 1115 ~~part~~ to pay an additional fee per licensed facility. The amount
 1116 of the biennial fee shall be \$400 per license, with an
 1117 additional fee of \$10 per resident based on the total licensed
 1118 resident capacity of the facility. No part of this fee shall be
 1119 returned to the facility. The agency may adjust the per bed
 1120 license fee and the annual license fee once each year by not
 1121 more than the average rate of inflation for the 12 months
 1122 immediately preceding the increase.

1123 (c) In addition to the total fee assessed under paragraph
 1124 (a), the agency shall require facilities that are licensed to
 1125 provide limited nursing services under this chapter ~~part~~ to pay
 1126 an additional fee per licensed facility. The amount of the
 1127 biennial fee shall be \$250 per license, with an additional fee
 1128 of \$10 per resident based on the total licensed resident
 1129 capacity of the facility. No part of this fee shall be returned
 1130 to the facility. The agency may adjust the per bed license fee
 1131 and the biennial license fee once each year by not more than the
 1132 average rate of inflation for the 12 months immediately
 1133 preceding the increase.

1134 (5) Counties or municipalities applying for licenses under
 1135 this chapter ~~part~~ are exempt from the payment of license fees.

1136 Section 33. Section 400.408, Florida Statutes, is
 1137 renumbered as section 429.08, Florida Statutes, and paragraphs
 1138 (a), (d), (e), (f), and (g) of subsection (1) and paragraph (f)
 1139 of subsection (2) are amended to read:

1140 400.408 Unlicensed facilities; referral of person for
 1141 residency to unlicensed facility; penalties; verification of
 1142 licensure status.--

1143 (1)(a) It is unlawful to own, operate, or maintain an
 1144 assisted living facility without obtaining a license under this
 1145 chapter part.

1146 (d) Any person who owns, operates, or maintains an
 1147 unlicensed assisted living facility due to a change in this
 1148 chapter part or a modification in department rule within 6
 1149 months after the effective date of such change and who, within
 1150 10 working days after receiving notification from the agency,
 1151 fails to cease operation or apply for a license under this
 1152 chapter part commits a felony of the third degree, punishable as
 1153 provided in s. 775.082, s. 775.083, or s. 775.084. Each day of
 1154 continued operation is a separate offense.

1155 (e) Any facility that fails to cease operation after
 1156 agency notification may be fined for each day of noncompliance
 1157 pursuant to s. 429.19 ~~400.419~~.

1158 (f) When a licensee has an interest in more than one
 1159 assisted living facility, and fails to license any one of these
 1160 facilities, the agency may revoke the license, impose a
 1161 moratorium, or impose a fine pursuant to s. 429.19 ~~400.419~~, on
 1162 any or all of the licensed facilities until such time as the
 1163 unlicensed facility is licensed or ceases operation.

1164 (g) If the agency determines that an owner is operating or
 1165 maintaining an assisted living facility without obtaining a
 1166 license and determines that a condition exists in the facility
 1167 that poses a threat to the health, safety, or welfare of a
 1168 resident of the facility, the owner is subject to the same
 1169 actions and fines imposed against a licensed facility as
 1170 specified in ss. 429.14 and 429.19 ~~400.414 and 400.419~~.

1171 (2) It is unlawful to knowingly refer a person for
 1172 residency to an unlicensed assisted living facility; to an
 1173 assisted living facility the license of which is under denial or
 1174 has been suspended or revoked; or to an assisted living facility
 1175 that has a moratorium on admissions. Any person who violates
 1176 this subsection commits a noncriminal violation, punishable by a
 1177 fine not exceeding \$500 as provided in s. 775.083.

1178 (f) At least annually, the agency shall notify, in
 1179 appropriate trade publications, physicians licensed under
 1180 chapter 458 or chapter 459, hospitals licensed under chapter
 1181 395, nursing home facilities licensed under part II of ~~this~~
 1182 chapter 400, and employees of the agency or the department, or
 1183 the Department of Children and Family Services, who are
 1184 responsible for referring persons for residency, that it is
 1185 unlawful to knowingly refer a person for residency to an
 1186 unlicensed assisted living facility and shall notify them of the
 1187 penalty for violating such prohibition. The department and the
 1188 Department of Children and Family Services shall, in turn,
 1189 notify service providers under contract to the respective
 1190 departments who have responsibility for resident referrals to
 1191 facilities. Further, the notice must direct each noticed

1192 facility and individual to contact the appropriate agency office
 1193 in order to verify the licensure status of any facility prior to
 1194 referring any person for residency. Each notice must include the
 1195 name, telephone number, and mailing address of the appropriate
 1196 office to contact.

1197 Section 34. Section 400.411, Florida Statutes, is
 1198 renumbered as section 429.11, Florida Statutes, and paragraph
 1199 (c) of subsection (3) and subsections (4), (11), and (13) are
 1200 amended to read:

1201 429.11 ~~400.411~~ Initial application for license;
 1202 provisional license.--

1203 (3) The application must be signed by the applicant under
 1204 oath and must contain the following:

1205 (c) The name and address of any long-term care facility
 1206 with which the applicant, administrator, or financial officer
 1207 has been affiliated through ownership or employment within 5
 1208 years of the date of this license application; and a signed
 1209 affidavit disclosing any financial or ownership interest that
 1210 the applicant, or any person listed in paragraph (a), holds or
 1211 has held within the last 5 years in any facility licensed under
 1212 this chapter ~~part~~, or in any other entity licensed by this state
 1213 or another state to provide health or residential care, which
 1214 facility or entity closed or ceased to operate as a result of
 1215 financial problems, or has had a receiver appointed or a license
 1216 denied, suspended or revoked, or was subject to a moratorium on
 1217 admissions, or has had an injunctive proceeding initiated
 1218 against it.

1219 (4) The applicant shall furnish satisfactory proof of
 1220 financial ability to operate and conduct the facility in
 1221 accordance with the requirements of this chapter ~~part~~. A
 1222 certificate of authority, pursuant to chapter 651, may be
 1223 provided as proof of financial ability.

1224 (11) The applicant must furnish proof of compliance with
 1225 level 2 background screening as required under s. 429.174
 1226 ~~400.4174~~.

1227 (13) A county or municipality may not issue an
 1228 occupational license that is being obtained for the purpose of
 1229 operating a facility regulated under this chapter ~~part~~ without
 1230 first ascertaining that the applicant has been licensed to
 1231 operate such facility at the specified location or locations by
 1232 the agency. The agency shall furnish to local agencies
 1233 responsible for issuing occupational licenses sufficient
 1234 instruction for making such determinations.

1235 Section 35. Section 400.412, Florida Statutes, is
 1236 renumbered as section 429.12, Florida Statutes, and subsection
 1237 (1) is amended to read:

1238 429.12 ~~400.412~~ Sale or transfer of ownership of a
 1239 facility.--It is the intent of the Legislature to protect the
 1240 rights of the residents of an assisted living facility when the
 1241 facility is sold or the ownership thereof is transferred.
 1242 Therefore, whenever a facility is sold or the ownership thereof
 1243 is transferred, including leasing:

1244 (1) The transferee shall make application to the agency
 1245 for a new license at least 60 days before the date of transfer

1246 of ownership. The application must comply with the provisions of
 1247 s. 429.11 ~~400.411~~.

1248 Section 36. Section 400.414, Florida Statutes, is
 1249 renumbered as section 429.14, Florida Statutes, and subsections
 1250 (1), (3), and (5) are amended to read:

1251 429.14 ~~400.414~~ Denial, revocation, or suspension of
 1252 license; imposition of administrative fine; grounds.--

1253 (1) The agency may deny, revoke, or suspend any license
 1254 issued under this chapter part, or impose an administrative fine
 1255 in the manner provided in chapter 120, for any of the following
 1256 actions by an assisted living facility, for the actions of any
 1257 person subject to level 2 background screening under s. 429.174
 1258 ~~400.4174~~, or for the actions of any facility employee:

1259 (a) An intentional or negligent act seriously affecting
 1260 the health, safety, or welfare of a resident of the facility.

1261 (b) The determination by the agency that the owner lacks
 1262 the financial ability to provide continuing adequate care to
 1263 residents.

1264 (c) Misappropriation or conversion of the property of a
 1265 resident of the facility.

1266 (d) Failure to follow the criteria and procedures provided
 1267 under part I of chapter 394 relating to the transportation,
 1268 voluntary admission, and involuntary examination of a facility
 1269 resident.

1270 (e) A citation of any of the following deficiencies as
 1271 defined in s. 429.19 ~~400.419~~:

- 1272 1. One or more cited class I deficiencies.
- 1273 2. Three or more cited class II deficiencies.

1274 3. Five or more cited class III deficiencies that have
 1275 been cited on a single survey and have not been corrected within
 1276 the times specified.

1277 (f) A determination that a person subject to level 2
 1278 background screening under s. 429.174 ~~400.4174~~(1) does not meet
 1279 the screening standards of s. 435.04 or that the facility is
 1280 retaining an employee subject to level 1 background screening
 1281 standards under s. 429.174 ~~400.4174~~(2) who does not meet the
 1282 screening standards of s. 435.03 and for whom exemptions from
 1283 disqualification have not been provided by the agency.

1284 (g) A determination that an employee, volunteer,
 1285 administrator, or owner, or person who otherwise has access to
 1286 the residents of a facility does not meet the criteria specified
 1287 in s. 435.03(2), and the owner or administrator has not taken
 1288 action to remove the person. Exemptions from disqualification
 1289 may be granted as set forth in s. 435.07. No administrative
 1290 action may be taken against the facility if the person is
 1291 granted an exemption.

1292 (h) Violation of a moratorium.

1293 (i) Failure of the license applicant, the licensee during
 1294 relicensure, or a licensee that holds a provisional license to
 1295 meet the minimum license requirements of this chapter ~~part~~, or
 1296 related rules, at the time of license application or renewal.

1297 (j) A fraudulent statement or omission of any material
 1298 fact on an application for a license or any other document
 1299 required by the agency, including the submission of a license
 1300 application that conceals the fact that any board member,
 1301 officer, or person owning 5 percent or more of the facility may

1302 not meet the background screening requirements of s. 429.174
 1303 ~~400.4174~~, or that the applicant has been excluded, permanently
 1304 suspended, or terminated from the Medicaid or Medicare programs.

1305 (k) An intentional or negligent life-threatening act in
 1306 violation of the uniform firesafety standards for assisted
 1307 living facilities or other firesafety standards that threatens
 1308 the health, safety, or welfare of a resident of a facility, as
 1309 communicated to the agency by the local authority having
 1310 jurisdiction or the State Fire Marshal.

1311 (l) Exclusion, permanent suspension, or termination from
 1312 the Medicare or Medicaid programs.

1313 (m) Knowingly operating any unlicensed facility or
 1314 providing without a license any service that must be licensed
 1315 under this chapter or chapter 400.

1316 (n) Any act constituting a ground upon which application
 1317 for a license may be denied.

1318
 1319 Administrative proceedings challenging agency action under this
 1320 subsection shall be reviewed on the basis of the facts and
 1321 conditions that resulted in the agency action.

1322 (3) The agency may deny a license to any applicant or to
 1323 any officer or board member of an applicant who is a firm,
 1324 corporation, partnership, or association or who owns 5 percent
 1325 or more of the facility, if the applicant, officer, or board
 1326 member has or had a 25-percent or greater financial or ownership
 1327 interest in any other facility licensed under this chapter ~~part~~,
 1328 or in any entity licensed by this state or another state to
 1329 provide health or residential care, which facility or entity

1330 during the 5 years prior to the application for a license closed
 1331 due to financial inability to operate; had a receiver appointed
 1332 or a license denied, suspended, or revoked; was subject to a
 1333 moratorium on admissions; had an injunctive proceeding initiated
 1334 against it; or has an outstanding fine assessed under this
 1335 chapter or chapter 400.

1336 (5) An action taken by the agency to suspend, deny, or
 1337 revoke a facility's license under this chapter ~~part~~, in which
 1338 the agency claims that the facility owner or an employee of the
 1339 facility has threatened the health, safety, or welfare of a
 1340 resident of the facility be heard by the Division of
 1341 Administrative Hearings of the Department of Management Services
 1342 within 120 days after receipt of the facility's request for a
 1343 hearing, unless that time limitation is waived by both parties.
 1344 The administrative law judge must render a decision within 30
 1345 days after receipt of a proposed recommended order.

1346 Section 37. Section 400.415, Florida Statutes, is
 1347 renumbered as section 429.15, Florida Statutes, and subsection
 1348 (1) is amended to read:

1349 429.15 ~~400.415~~ Moratorium on admissions; notice.--The
 1350 agency may impose an immediate moratorium on admissions to any
 1351 assisted living facility if the agency determines that any
 1352 condition in the facility presents a threat to the health,
 1353 safety, or welfare of the residents in the facility.

1354 (1) A facility the license of which is denied, revoked, or
 1355 suspended pursuant to s. 429.14 ~~400.414~~ may be subject to
 1356 immediate imposition of a moratorium on admissions to run
 1357 concurrently with licensure denial, revocation, or suspension.

1358 Section 38. Section 400.417, Florida Statutes, is
 1359 renumbered as section 429.17, Florida Statutes, and subsections
 1360 (2) and (3) are amended to read:

1361 429.17 ~~400.417~~ Expiration of license; renewal; conditional
 1362 license.--

1363 (2) A license shall be renewed within 90 days upon the
 1364 timely filing of an application on forms furnished by the agency
 1365 and the provision of satisfactory proof of ability to operate
 1366 and conduct the facility in accordance with the requirements of
 1367 this chapter ~~part~~ and adopted rules, including proof that the
 1368 facility has received a satisfactory firesafety inspection,
 1369 conducted by the local authority having jurisdiction or the
 1370 State Fire Marshal, within the preceding 12 months and an
 1371 affidavit of compliance with the background screening
 1372 requirements of s. 429.174 ~~400.4174~~.

1373 (3) An applicant for renewal of a license who has complied
 1374 with the provisions of s. 429.11 ~~400.411~~ with respect to proof
 1375 of financial ability to operate shall not be required to provide
 1376 further proof unless the facility or any other facility owned or
 1377 operated in whole or in part by the same person has demonstrated
 1378 financial instability as provided under s. 429.47 ~~400.447~~(2) or
 1379 unless the agency suspects that the facility is not financially
 1380 stable as a result of the annual survey or complaints from the
 1381 public or a report from the State Long-Term Care Ombudsman
 1382 Council. Each facility must report to the agency any adverse
 1383 court action concerning the facility's financial viability,
 1384 within 7 days after its occurrence. The agency shall have
 1385 access to books, records, and any other financial documents

1386 maintained by the facility to the extent necessary to determine
 1387 the facility's financial stability. A license for the operation
 1388 of a facility shall not be renewed if the licensee has any
 1389 outstanding fines assessed pursuant to this chapter ~~part~~ which
 1390 are in final order status.

1391 Section 39. Section 400.4174, Florida Statutes, is
 1392 renumbered as section 429.174, Florida Statutes, and subsection
 1393 (2) is amended to read:

1394 429.174 ~~400.4174~~ Background screening; exemptions.--

1395 (2) The owner or administrator of an assisted living
 1396 facility must conduct level 1 background screening, as set forth
 1397 in chapter 435, on all employees hired on or after October 1,
 1398 1998, who perform personal services as defined in s. 429.02
 1399 ~~400.402~~(17). The agency may exempt an individual from employment
 1400 disqualification as set forth in chapter 435. Such persons shall
 1401 be considered as having met this requirement if:

1402 (a) Proof of compliance with level 1 screening
 1403 requirements obtained to meet any professional license
 1404 requirements in this state is provided and accompanied, under
 1405 penalty of perjury, by a copy of the person's current
 1406 professional license and an affidavit of current compliance with
 1407 the background screening requirements.

1408 (b) The person required to be screened has been
 1409 continuously employed in the same type of occupation for which
 1410 the person is seeking employment without a breach in service
 1411 which exceeds 180 days, and proof of compliance with the level 1
 1412 screening requirement which is no more than 2 years old is
 1413 provided. Proof of compliance shall be provided directly from

1414 one employer or contractor to another, and not from the person
 1415 screened. Upon request, a copy of screening results shall be
 1416 provided by the employer retaining documentation of the
 1417 screening to the person screened.

1418 (c) The person required to be screened is employed by a
 1419 corporation or business entity or related corporation or
 1420 business entity that owns, operates, or manages more than one
 1421 facility or agency licensed under this chapter or chapter 400,
 1422 and for whom a level 1 screening was conducted by the
 1423 corporation or business entity as a condition of initial or
 1424 continued employment.

1425 Section 40. Section 400.4176, Florida Statutes, is
 1426 renumbered as section 429.176, Florida Statutes, and amended to
 1427 read:

1428 429.176 ~~400.4176~~ Notice of change of administrator.--If,
 1429 during the period for which a license is issued, the owner
 1430 changes administrators, the owner must notify the agency of the
 1431 change within 10 days and provide documentation within 90 days
 1432 that the new administrator has completed the applicable core
 1433 educational requirements under s. 429.52 ~~400.452~~. Background
 1434 screening shall be completed on any new administrator as
 1435 specified in s. 429.174 ~~400.4174~~.

1436 Section 41. Section 400.4177, Florida Statutes, is
 1437 renumbered as section 429.177, Florida Statutes, and amended to
 1438 read:

1439 429.177 ~~400.4177~~ Patients with Alzheimer's disease or
 1440 other related disorders; certain disclosures.--A facility
 1441 licensed under this chapter ~~part~~ which claims that it provides

1442 special care for persons who have Alzheimer's disease or other
 1443 related disorders must disclose in its advertisements or in a
 1444 separate document those services that distinguish the care as
 1445 being especially applicable to, or suitable for, such persons.
 1446 The facility must give a copy of all such advertisements or a
 1447 copy of the document to each person who requests information
 1448 about programs and services for persons with Alzheimer's disease
 1449 or other related disorders offered by the facility and must
 1450 maintain a copy of all such advertisements and documents in its
 1451 records. The agency shall examine all such advertisements and
 1452 documents in the facility's records as part of the license
 1453 renewal procedure.

1454 Section 42. Section 400.4178, Florida Statutes, is
 1455 renumbered as section 429.178, Florida Statutes, and paragraphs
 1456 (a) and (b) of subsection (2) are amended to read:

1457 429.178 ~~400.4178~~ Special care for persons with Alzheimer's
 1458 disease or other related disorders.--

1459 (2)(a) An individual who is employed by a facility that
 1460 provides special care for residents with Alzheimer's disease or
 1461 other related disorders, and who has regular contact with such
 1462 residents, must complete up to 4 hours of initial dementia-
 1463 specific training developed or approved by the department. The
 1464 training shall be completed within 3 months after beginning
 1465 employment and shall satisfy the core training requirements of
 1466 s. 429.52 ~~400.452~~(2)(g).

1467 (b) A direct caregiver who is employed by a facility that
 1468 provides special care for residents with Alzheimer's disease or
 1469 other related disorders, and who provides direct care to such

1470 residents, must complete the required initial training and 4
 1471 additional hours of training developed or approved by the
 1472 department. The training shall be completed within 9 months
 1473 after beginning employment and shall satisfy the core training
 1474 requirements of s. 429.52 ~~400.452~~(2)(g).

1475 Section 43. Section 400.418, Florida Statutes, is
 1476 renumbered as section 429.18, Florida Statutes, and amended to
 1477 read:

1478 429.18 ~~400.418~~ Disposition of fees and administrative
 1479 fines.--

1480 (1) Income from license fees, inspection fees, late fees,
 1481 and administrative fines generated pursuant to ss. 429.07,
 1482 429.08, 429.17, 429.19, and 429.31 ~~400.407, 400.408, 400.417,~~
 1483 ~~400.419, and 400.431~~ shall be deposited in the Health Care Trust
 1484 Fund administered by the agency. Such funds shall be directed
 1485 to and used by the agency for the following purposes:

1486 (a) Up to 50 percent of the trust funds accrued each
 1487 fiscal year under this chapter part ~~part~~ may be used to offset the
 1488 expenses of receivership, pursuant to s. 429.22 ~~400.422~~, if the
 1489 court determines that the income and assets of the facility are
 1490 insufficient to provide for adequate management and operation.

1491 (b) An amount of \$5,000 of the trust funds accrued each
 1492 year under this chapter part ~~part~~ shall be allocated to pay for
 1493 inspection-related physical and mental health examinations
 1494 requested by the agency pursuant to s. 429.26 ~~400.426~~ for
 1495 residents who are either recipients of supplemental security
 1496 income or have monthly incomes not in excess of the maximum
 1497 combined federal and state cash subsidies available to

1498 supplemental security income recipients, as provided for in s.
 1499 409.212. Such funds shall only be used where the resident is
 1500 ineligible for Medicaid.

1501 (c) Any trust funds accrued each year under this chapter
 1502 ~~part~~ and not used for the purposes specified in paragraphs (a)
 1503 and (b) shall be used to offset the costs of the licensure
 1504 program, including the costs of conducting background
 1505 investigations, verifying information submitted, defraying the
 1506 costs of processing the names of applicants, and conducting
 1507 inspections and monitoring visits pursuant to this chapter ~~part~~.

1508 (2) Income from fees generated pursuant to s. 429.41
 1509 ~~400.441~~(5) shall be deposited in the Health Care Trust Fund and
 1510 used to offset the costs of printing and postage.

1511 Section 44. Section 400.419, Florida Statutes, is
 1512 renumbered as section 429.19, Florida Statutes, and subsections
 1513 (1), (2), (9), (10), (11), and (12) are amended to read:

1514 429.19 ~~400.419~~ Violations; imposition of administrative
 1515 fines; grounds.--

1516 (1) The agency shall impose an administrative fine in the
 1517 manner provided in chapter 120 for any of the actions or
 1518 violations as set forth within this section by an assisted
 1519 living facility, for the actions of any person subject to level
 1520 2 background screening under s. 429.174 ~~400.4174~~, for the
 1521 actions of any facility employee, or for an intentional or
 1522 negligent act seriously affecting the health, safety, or welfare
 1523 of a resident of the facility.

1524 (2) Each violation of this chapter ~~part~~ and adopted rules
 1525 shall be classified according to the nature of the violation and

1526 the gravity of its probable effect on facility residents. The
1527 agency shall indicate the classification on the written notice
1528 of the violation as follows:

1529 (a) Class "I" violations are those conditions or
1530 occurrences related to the operation and maintenance of a
1531 facility or to the personal care of residents which the agency
1532 determines present an imminent danger to the residents or guests
1533 of the facility or a substantial probability that death or
1534 serious physical or emotional harm would result therefrom. The
1535 condition or practice constituting a class I violation shall be
1536 abated or eliminated within 24 hours, unless a fixed period, as
1537 determined by the agency, is required for correction. The agency
1538 shall impose an administrative fine for a cited class I
1539 violation in an amount not less than \$5,000 and not exceeding
1540 \$10,000 for each violation. A fine may be levied notwithstanding
1541 the correction of the violation.

1542 (b) Class "II" violations are those conditions or
1543 occurrences related to the operation and maintenance of a
1544 facility or to the personal care of residents which the agency
1545 determines directly threaten the physical or emotional health,
1546 safety, or security of the facility residents, other than class
1547 I violations. The agency shall impose an administrative fine for
1548 a cited class II violation in an amount not less than \$1,000 and
1549 not exceeding \$5,000 for each violation. A fine shall be levied
1550 notwithstanding the correction of the violation.

1551 (c) Class "III" violations are those conditions or
1552 occurrences related to the operation and maintenance of a
1553 facility or to the personal care of residents which the agency

1554 determines indirectly or potentially threaten the physical or
1555 emotional health, safety, or security of facility residents,
1556 other than class I or class II violations. The agency shall
1557 impose an administrative fine for a cited class III violation in
1558 an amount not less than \$500 and not exceeding \$1,000 for each
1559 violation. A citation for a class III violation must specify the
1560 time within which the violation is required to be corrected. If
1561 a class III violation is corrected within the time specified, no
1562 fine may be imposed, unless it is a repeated offense.

1563 (d) Class "IV" violations are those conditions or
1564 occurrences related to the operation and maintenance of a
1565 building or to required reports, forms, or documents that do not
1566 have the potential of negatively affecting residents. These
1567 violations are of a type that the agency determines do not
1568 threaten the health, safety, or security of residents of the
1569 facility. The agency shall impose an administrative fine for a
1570 cited class IV violation in an amount not less than \$100 and not
1571 exceeding \$200 for each violation. A citation for a class IV
1572 violation must specify the time within which the violation is
1573 required to be corrected. If a class IV violation is corrected
1574 within the time specified, no fine shall be imposed. Any class
1575 IV violation that is corrected during the time an agency survey
1576 is being conducted will be identified as an agency finding and
1577 not as a violation.

1578 (9) Any facility whose owner fails to apply for a change-
1579 of-ownership license in accordance with s. 429.12 ~~400.412~~ and
1580 operates the facility under the new ownership is subject to a
1581 fine of \$5,000.

1582 (10) In addition to any administrative fines imposed, the
 1583 agency may assess a survey fee, equal to the lesser of one half
 1584 of the facility's biennial license and bed fee or \$500, to cover
 1585 the cost of conducting initial complaint investigations that
 1586 result in the finding of a violation that was the subject of the
 1587 complaint or monitoring visits conducted under s. 429.28
 1588 ~~400.428~~(3)(c) to verify the correction of the violations.

1589 (11) The agency, as an alternative to or in conjunction
 1590 with an administrative action against a facility for violations
 1591 of this chapter part and adopted rules, shall make a reasonable
 1592 attempt to discuss each violation and recommended corrective
 1593 action with the owner or administrator of the facility, prior to
 1594 written notification. The agency, instead of fixing a period
 1595 within which the facility shall enter into compliance with
 1596 standards, may request a plan of corrective action from the
 1597 facility which demonstrates a good faith effort to remedy each
 1598 violation by a specific date, subject to the approval of the
 1599 agency.

1600 (12) Administrative fines paid by any facility under this
 1601 section shall be deposited into the Health Care Trust Fund and
 1602 expended as provided in s. 429.18 ~~400.418~~.

1603 Section 45. Section 400.4195, Florida Statutes, is
 1604 renumbered as section 429.195, Florida Statutes, and subsection
 1605 (1) is amended to read:

1606 429.195 ~~400.4195~~ Rebates prohibited; penalties.--

1607 (1) It is unlawful for any assisted living facility
 1608 licensed under this chapter part to contract or promise to pay
 1609 or receive any commission, bonus, kickback, or rebate or engage

1610 | in any split-fee arrangement in any form whatsoever with any
 1611 | physician, surgeon, organization, agency, or person, either
 1612 | directly or indirectly, for residents referred to an assisted
 1613 | living facility licensed under this chapter ~~part~~. A facility may
 1614 | employ or contract with persons to market the facility, provided
 1615 | the employee or contract provider clearly indicates that he or
 1616 | she represents the facility. A person or agency independent of
 1617 | the facility may provide placement or referral services for a
 1618 | fee to individuals seeking assistance in finding a suitable
 1619 | facility; however, any fee paid for placement or referral
 1620 | services must be paid by the individual looking for a facility,
 1621 | not by the facility.

1622 | Section 46. Section 400.42, Florida Statutes, is
 1623 | renumbered as section 429.20, Florida Statutes, and subsection
 1624 | (3) is amended to read:

1625 | 429.20 ~~400.42~~ Certain solicitation prohibited; third-party
 1626 | supplementation.--

1627 | (3) The admission or maintenance of assisted living
 1628 | facility residents whose care is supported, in whole or in part,
 1629 | by state funds may not be conditioned upon the receipt of any
 1630 | manner of contribution or donation from any person. The
 1631 | solicitation or receipt of contributions in violation of this
 1632 | subsection is grounds for denial, suspension, or revocation of
 1633 | license, as provided in s. 429.14 ~~400.414~~, for any assisted
 1634 | living facility by or on behalf of which such contributions were
 1635 | solicited.

1636 Section 47. Section 400.421, Florida Statutes, is
 1637 renumbered as section 429.21, Florida Statutes, and subsection
 1638 (1) is amended to read:

1639 429.21 ~~400.421~~ Injunctive proceedings.--

1640 (1) The agency may institute injunctive proceedings in a
 1641 court of competent jurisdiction to:

1642 (a) Enforce the provisions of this chapter part or any
 1643 minimum standard, rule, or order issued or entered into pursuant
 1644 thereto when the attempt by the agency to correct a violation
 1645 through administrative fines has failed or when the violation
 1646 materially affects the health, safety, or welfare of residents;
 1647 or

1648 (b) Terminate the operation of a facility when violations
 1649 of any provisions of this chapter part or of any standard or
 1650 rule promulgated pursuant thereto exist which materially affect
 1651 the health, safety, or welfare of residents.

1652 Section 48. Section 400.422, Florida Statutes, is
 1653 renumbered as section 429.22, Florida Statutes, and paragraph
 1654 (a) of subsection (1) and subsection (9) are amended to read:

1655 429.22 ~~400.422~~ Receivership proceedings.--

1656 (1) As an alternative to or in conjunction with an
 1657 injunctive proceeding, the agency may petition a court of
 1658 competent jurisdiction for the appointment of a receiver, if
 1659 suitable alternate placements are not available, when any of the
 1660 following conditions exist:

1661 (a) The facility is operating without a license and
 1662 refuses to make application for a license as required by ss.

1663 429.07 ~~400.407~~ and 429.08 ~~400.408~~.

1664 (9) The court may direct the agency to allocate funds from
 1665 the Health Care Trust Fund to the receiver, subject to the
 1666 provisions of s. 429.18 ~~400.418~~(1).

1667 Section 49. Section 400.423, Florida Statutes, is
 1668 renumbered as section 429.23, Florida Statutes, and subsections
 1669 (1), (2), (5), and (8) are amended to read:

1670 429.23 ~~400.423~~ Internal risk management and quality
 1671 assurance program; adverse incidents and reporting
 1672 requirements.--

1673 (1) Every facility licensed under this chapter ~~part~~ may,
 1674 as part of its administrative functions, voluntarily establish a
 1675 risk management and quality assurance program, the purpose of
 1676 which is to assess resident care practices, facility incident
 1677 reports, deficiencies cited by the agency, adverse incident
 1678 reports, and resident grievances and develop plans of action to
 1679 correct and respond quickly to identify quality differences.

1680 (2) Every facility licensed under this chapter ~~part~~ is
 1681 required to maintain adverse incident reports. For purposes of
 1682 this section, the term, "adverse incident" means:

1683 (a) An event over which facility personnel could exercise
 1684 control rather than as a result of the resident's condition and
 1685 results in:

- 1686 1. Death;
- 1687 2. Brain or spinal damage;
- 1688 3. Permanent disfigurement;
- 1689 4. Fracture or dislocation of bones or joints;

1690 5. Any condition that required medical attention to which
 1691 the resident has not given his or her consent, including failure
 1692 to honor advanced directives;

1693 6. Any condition that requires the transfer of the
 1694 resident from the facility to a unit providing more acute care
 1695 due to the incident rather than the resident's condition before
 1696 the incident.

1697 (b) Abuse, neglect, or exploitation as defined in s.
 1698 415.102;

1699 (c) Events reported to law enforcement; or

1700 (d) Elopement.

1701 (5) Each facility shall report monthly to the agency any
 1702 liability claim filed against it. The report must include the
 1703 name of the resident, the dates of the incident leading to the
 1704 claim, if applicable, and the type of injury or violation of
 1705 rights alleged to have occurred. This report is not discoverable
 1706 in any civil or administrative action, except in such actions
 1707 brought by the agency to enforce the provisions of this chapter
 1708 ~~part~~.

1709 (8) If the agency, through its receipt of the adverse
 1710 incident reports prescribed in this chapter ~~part~~ or through any
 1711 investigation, has reasonable belief that conduct by a staff
 1712 member or employee of a licensed facility is grounds for
 1713 disciplinary action by the appropriate board, the agency shall
 1714 report this fact to such regulatory board.

1715 Section 50. Section 400.424, Florida Statutes, is
 1716 renumbered as section 429.24, Florida Statutes, and subsection

1717 (2), paragraph (a) of subsection (3), and subsection (5) are
 1718 amended to read:

1719 429.24 ~~400.424~~ Contracts.--

1720 (2) Each contract must contain express provisions
 1721 specifically setting forth the services and accommodations to be
 1722 provided by the facility; the rates or charges; provision for at
 1723 least 30 days' written notice of a rate increase; the rights,
 1724 duties, and obligations of the residents, other than those
 1725 specified in s. 429.28 ~~400.428~~; and other matters that the
 1726 parties deem appropriate. Whenever money is deposited or
 1727 advanced by a resident in a contract as security for performance
 1728 of the contract agreement or as advance rent for other than the
 1729 next immediate rental period:

1730 (a) Such funds shall be deposited in a banking institution
 1731 in this state that is located, if possible, in the same
 1732 community in which the facility is located; shall be kept
 1733 separate from the funds and property of the facility; may not be
 1734 represented as part of the assets of the facility on financial
 1735 statements; and shall be used, or otherwise expended, only for
 1736 the account of the resident.

1737 (b) The licensee shall, within 30 days of receipt of
 1738 advance rent or a security deposit, notify the resident or
 1739 residents in writing of the manner in which the licensee is
 1740 holding the advance rent or security deposit and state the name
 1741 and address of the depository where the moneys are being held.
 1742 The licensee shall notify residents of the facility's policy on
 1743 advance deposits.

1744 (3) (a) The contract shall include a refund policy to be
1745 implemented at the time of a resident's transfer, discharge, or
1746 death. The refund policy shall provide that the resident or
1747 responsible party is entitled to a prorated refund based on the
1748 daily rate for any unused portion of payment beyond the
1749 termination date after all charges, including the cost of
1750 damages to the residential unit resulting from circumstances
1751 other than normal use, have been paid to the licensee. For the
1752 purpose of this paragraph, the termination date shall be the
1753 date the unit is vacated by the resident and cleared of all
1754 personal belongings. If the amount of belongings does not
1755 preclude renting the unit, the facility may clear the unit and
1756 charge the resident or his or her estate for moving and storing
1757 the items at a rate equal to the actual cost to the facility,
1758 not to exceed 20 percent of the regular rate for the unit,
1759 provided that 14 days' advance written notification is given. If
1760 the resident's possessions are not claimed within 45 days after
1761 notification, the facility may dispose of them. The contract
1762 shall also specify any other conditions under which claims will
1763 be made against the refund due the resident. Except in the case
1764 of death or a discharge due to medical reasons, the refunds
1765 shall be computed in accordance with the notice of relocation
1766 requirements specified in the contract. However, a resident may
1767 not be required to provide the licensee with more than 30 days'
1768 notice of termination. If after a contract is terminated, the
1769 facility intends to make a claim against a refund due the
1770 resident, the facility shall notify the resident or responsible
1771 party in writing of the claim and shall provide said party with

1772 a reasonable time period of no less than 14 calendar days to
1773 respond. The facility shall provide a refund to the resident or
1774 responsible party within 45 days after the transfer, discharge,
1775 or death of the resident. The agency shall impose a fine upon a
1776 facility that fails to comply with the refund provisions of the
1777 paragraph, which fine shall be equal to three times the amount
1778 due to the resident. One-half of the fine shall be remitted to
1779 the resident or his or her estate, and the other half to the
1780 Health Care Trust Fund to be used for the purpose specified in
1781 s. 429.18 ~~400.418~~.

1782 (5) Neither the contract nor any provision thereof
1783 relieves any licensee of any requirement or obligation imposed
1784 upon it by this chapter part or rules adopted under this chapter
1785 part.

1786 Section 51. Section 400.4255, Florida Statutes, is
1787 renumbered as section 429.255, Florida Statutes, and paragraphs
1788 (a) and (b) of subsection (1) and subsection (2) are amended to
1789 read:

1790 429.255 ~~400.4255~~ Use of personnel; emergency care.--

1791 (1) (a) Persons under contract to the facility, facility
1792 staff, or volunteers, who are licensed according to part I of
1793 chapter 464, or those persons exempt under s. 464.022(1), and
1794 others as defined by rule, may administer medications to
1795 residents, take residents' vital signs, manage individual weekly
1796 pill organizers for residents who self-administer medication,
1797 give prepackaged enemas ordered by a physician, observe
1798 residents, document observations on the appropriate resident's
1799 record, report observations to the resident's physician, and

1800 contract or allow residents or a resident's representative,
 1801 designee, surrogate, guardian, or attorney in fact to contract
 1802 with a third party, provided residents meet the criteria for
 1803 appropriate placement as defined in s. 429.26 ~~400.426~~. Nursing
 1804 assistants certified pursuant to part II of chapter 464 may take
 1805 residents' vital signs as directed by a licensed nurse or
 1806 physician.

1807 (b) All staff in facilities licensed under this chapter
 1808 ~~part~~ shall exercise their professional responsibility to observe
 1809 residents, to document observations on the appropriate
 1810 resident's record, and to report the observations to the
 1811 resident's physician. However, the owner or administrator of
 1812 the facility shall be responsible for determining that the
 1813 resident receiving services is appropriate for residence in the
 1814 facility.

1815 (2) In facilities licensed to provide extended congregate
 1816 care, persons under contract to the facility, facility staff, or
 1817 volunteers, who are licensed according to part I of chapter 464,
 1818 or those persons exempt under s. 464.022(1), or those persons
 1819 certified as nursing assistants pursuant to part II of chapter
 1820 464, may also perform all duties within the scope of their
 1821 license or certification, as approved by the facility
 1822 administrator and pursuant to this chapter ~~part~~.

1823 Section 52. Section 400.4256, Florida Statutes, is
 1824 renumbered as section 429.256, Florida Statutes, and paragraph
 1825 (b) of subsection (1) is amended to read:

1826 429.256 ~~400.4256~~ Assistance with self-administration of
 1827 medication.--

1828 (1) For the purposes of this section, the term:

1829 (b) "Unlicensed person" means an individual not currently
 1830 licensed to practice nursing or medicine who is employed by or
 1831 under contract to an assisted living facility and who has
 1832 received training with respect to assisting with the self-
 1833 administration of medication in an assisted living facility as
 1834 provided under s. 429.52 ~~400.452~~ prior to providing such
 1835 assistance as described in this section.

1836 Section 53. Section 400.426, Florida Statutes, is
 1837 renumbered as section 429.26, Florida Statutes, and subsections
 1838 (1), (4), (5), (9), and (12) are amended to read:

1839 429.26 ~~400.426~~ Appropriateness of placements; examinations
 1840 of residents.--

1841 (1) The owner or administrator of a facility is
 1842 responsible for determining the appropriateness of admission of
 1843 an individual to the facility and for determining the continued
 1844 appropriateness of residence of an individual in the facility. A
 1845 determination shall be based upon an assessment of the
 1846 strengths, needs, and preferences of the resident, the care and
 1847 services offered or arranged for by the facility in accordance
 1848 with facility policy, and any limitations in law or rule related
 1849 to admission criteria or continued residency for the type of
 1850 license held by the facility under this chapter ~~part~~. A resident
 1851 may not be moved from one facility to another without
 1852 consultation with and agreement from the resident or, if
 1853 applicable, the resident's representative or designee or the
 1854 resident's family, guardian, surrogate, or attorney in fact. In
 1855 the case of a resident who has been placed by the department or

1856 the Department of Children and Family Services, the
 1857 administrator must notify the appropriate contact person in the
 1858 applicable department.

1859 (4) If possible, each resident shall have been examined by
 1860 a licensed physician or a licensed nurse practitioner within 60
 1861 days before admission to the facility. The signed and completed
 1862 medical examination report shall be submitted to the owner or
 1863 administrator of the facility who shall use the information
 1864 contained therein to assist in the determination of the
 1865 appropriateness of the resident's admission and continued stay
 1866 in the facility. The medical examination report shall become a
 1867 permanent part of the record of the resident at the facility and
 1868 shall be made available to the agency during inspection or upon
 1869 request. An assessment that has been completed through the
 1870 Comprehensive Assessment and Review for Long-Term Care Services
 1871 (CARES) Program fulfills the requirements for a medical
 1872 examination under this subsection and s. 429.07 ~~400.407~~(3)(b)6.

1873 (5) Except as provided in s. 429.07 ~~400.407~~, if a medical
 1874 examination has not been completed within 60 days before the
 1875 admission of the resident to the facility, a licensed physician
 1876 or licensed nurse practitioner shall examine the resident and
 1877 complete a medical examination form provided by the agency
 1878 within 30 days following the admission to the facility to enable
 1879 the facility owner or administrator to determine the
 1880 appropriateness of the admission. The medical examination form
 1881 shall become a permanent part of the record of the resident at
 1882 the facility and shall be made available to the agency during
 1883 inspection by the agency or upon request.

1884 (9) If, at any time after admission to a facility, a
 1885 resident appears to need care beyond that which the facility is
 1886 licensed to provide, the agency shall require the resident to be
 1887 physically examined by a licensed physician or licensed nurse
 1888 practitioner. This examination shall, to the extent possible, be
 1889 performed by the resident's preferred physician or nurse
 1890 practitioner and shall be paid for by the resident with personal
 1891 funds, except as provided in s. 429.18 ~~400.418~~(1)(b). Following
 1892 this examination, the examining physician or licensed nurse
 1893 practitioner shall complete and sign a medical form provided by
 1894 the agency. The completed medical form shall be submitted to the
 1895 agency within 30 days after the date the facility owner or
 1896 administrator is notified by the agency that the physical
 1897 examination is required. After consultation with the physician
 1898 or licensed nurse practitioner who performed the examination, a
 1899 medical review team designated by the agency shall then
 1900 determine whether the resident is appropriately residing in the
 1901 facility. The medical review team shall base its decision on a
 1902 comprehensive review of the resident's physical and functional
 1903 status, including the resident's preferences, and not on an
 1904 isolated health-related problem. In the case of a mental health
 1905 resident, if the resident appears to have needs in addition to
 1906 those identified in the community living support plan, the
 1907 agency may require an evaluation by a mental health
 1908 professional, as determined by the Department of Children and
 1909 Family Services. A facility may not be required to retain a
 1910 resident who requires more services or care than the facility is
 1911 able to provide in accordance with its policies and criteria for

1912 admission and continued residency. Members of the medical review
 1913 team making the final determination may not include the agency
 1914 personnel who initially questioned the appropriateness of a
 1915 resident's placement. Such determination is final and binding
 1916 upon the facility and the resident. Any resident who is
 1917 determined by the medical review team to be inappropriately
 1918 residing in a facility shall be given 30 days' written notice to
 1919 relocate by the owner or administrator, unless the resident's
 1920 continued residence in the facility presents an imminent danger
 1921 to the health, safety, or welfare of the resident or a
 1922 substantial probability exists that death or serious physical
 1923 harm would result to the resident if allowed to remain in the
 1924 facility.

1925 (12) No resident who requires 24-hour nursing supervision,
 1926 except for a resident who is an enrolled hospice patient
 1927 pursuant to part VI of ~~this~~ chapter 400, shall be retained in a
 1928 facility licensed under this chapter ~~part~~.

1929 Section 54. Section 400.427, Florida Statutes, is
 1930 renumbered as section 429.27, Florida Statutes, and paragraph
 1931 (a) of subsection (6) is amended to read:

1932 429.27 ~~400.427~~ Property and personal affairs of
 1933 residents.--

1934 (6) (a) In addition to any damages or civil penalties to
 1935 which a person is subject, any person who:

1936 1. Intentionally withholds a resident's personal funds,
 1937 personal property, or personal needs allowance, or who demands,
 1938 beneficially receives, or contracts for payment of all or any
 1939 part of a resident's personal property or personal needs

1940 allowance in satisfaction of the facility rate for supplies and
 1941 services; or

1942 2. Borrows from or pledges any personal funds of a
 1943 resident, other than the amount agreed to by written contract
 1944 under s. 429.24 ~~400.424~~,

1945
 1946 commits a misdemeanor of the first degree, punishable as
 1947 provided in s. 775.082 or s. 775.083.

1948 Section 55. Section 400.4275, Florida Statutes, is
 1949 renumbered as section 429.275, Florida Statutes, and subsection
 1950 (2) is amended to read:

1951 429.275 ~~400.4275~~ Business practice; personnel records;
 1952 liability insurance.--The assisted living facility shall be
 1953 administered on a sound financial basis that is consistent with
 1954 good business practices.

1955 (2) The administrator or owner of a facility shall
 1956 maintain personnel records for each staff member which contain,
 1957 at a minimum, documentation of background screening, if
 1958 applicable, documentation of compliance with all training
 1959 requirements of this chapter part or applicable rule, and a copy
 1960 of all licenses or certification held by each staff who performs
 1961 services for which licensure or certification is required under
 1962 this chapter part or rule.

1963 Section 56. Section 400.428, Florida Statutes, is
 1964 renumbered as section 429.28, Florida Statutes, and paragraph
 1965 (f) of subsection (1), subsection (2), paragraph (e) of
 1966 subsection (3), paragraph (c) of subsection (5), and subsection
 1967 (7) are amended to read:

1968 | 429.28 ~~400.428~~ Resident bill of rights.--

1969 | (1) No resident of a facility shall be deprived of any
 1970 | civil or legal rights, benefits, or privileges guaranteed by
 1971 | law, the Constitution of the State of Florida, or the
 1972 | Constitution of the United States as a resident of a facility.
 1973 | Every resident of a facility shall have the right to:

1974 | (f) Manage his or her financial affairs unless the
 1975 | resident or, if applicable, the resident's representative,
 1976 | designee, surrogate, guardian, or attorney in fact authorizes
 1977 | the administrator of the facility to provide safekeeping for
 1978 | funds as provided in s. 429.27 ~~400.427~~.

1979 | (2) The administrator of a facility shall ensure that a
 1980 | written notice of the rights, obligations, and prohibitions set
 1981 | forth in this chapter part is posted in a prominent place in
 1982 | each facility and read or explained to residents who cannot
 1983 | read. This notice shall include the name, address, and telephone
 1984 | numbers of the local ombudsman council and central abuse hotline
 1985 | and, when applicable, the Advocacy Center for Persons with
 1986 | Disabilities, Inc., and the Florida local advocacy council,
 1987 | where complaints may be lodged. The facility must ensure a
 1988 | resident's access to a telephone to call the local ombudsman
 1989 | council, central abuse hotline, Advocacy Center for Persons with
 1990 | Disabilities, Inc., and the Florida local advocacy council.

1991 | (3)

1992 | (e) The agency may conduct complaint investigations as
 1993 | warranted to investigate any allegations of noncompliance with
 1994 | requirements required under this chapter part or rules adopted
 1995 | under this chapter part.

1996 (5) No facility or employee of a facility may serve notice
 1997 upon a resident to leave the premises or take any other
 1998 retaliatory action against any person who:

1999 (c) Files a civil action alleging a violation of the
 2000 provisions of this chapter ~~part~~ or notifies a state attorney or
 2001 the Attorney General of a possible violation of such provisions.

2002 (7) Any person who submits or reports a complaint
 2003 concerning a suspected violation of the provisions of this
 2004 chapter ~~part~~ or concerning services and conditions in
 2005 facilities, or who testifies in any administrative or judicial
 2006 proceeding arising from such a complaint, shall have immunity
 2007 from any civil or criminal liability therefor, unless such
 2008 person has acted in bad faith or with malicious purpose or the
 2009 court finds that there was a complete absence of a justiciable
 2010 issue of either law or fact raised by the losing party.

2011 Section 57. Section 400.429, Florida Statutes, is
 2012 renumbered as section 429.29, Florida Statutes, and subsections
 2013 (1), (2), and (7) are amended to read:

2014 429.29 ~~400.429~~ Civil actions to enforce rights.--

2015 (1) Any person or resident whose rights as specified in
 2016 this chapter ~~part~~ are violated shall have a cause of action.
 2017 The action may be brought by the resident or his or her
 2018 guardian, or by a person or organization acting on behalf of a
 2019 resident with the consent of the resident or his or her
 2020 guardian, or by the personal representative of the estate of a
 2021 deceased resident regardless of the cause of death. If the
 2022 action alleges a claim for the resident's rights or for
 2023 negligence that caused the death of the resident, the claimant

2024 shall be required to elect either survival damages pursuant to
 2025 s. 46.021 or wrongful death damages pursuant to s. 768.21. If
 2026 the action alleges a claim for the resident's rights or for
 2027 negligence that did not cause the death of the resident, the
 2028 personal representative of the estate may recover damages for
 2029 the negligence that caused injury to the resident. The action
 2030 may be brought in any court of competent jurisdiction to enforce
 2031 such rights and to recover actual damages, and punitive damages
 2032 for violation of the rights of a resident or negligence. Any
 2033 resident who prevails in seeking injunctive relief or a claim
 2034 for an administrative remedy is entitled to recover the costs of
 2035 the action and a reasonable attorney's fee assessed against the
 2036 defendant not to exceed \$25,000. Fees shall be awarded solely
 2037 for the injunctive or administrative relief and not for any
 2038 claim or action for damages whether such claim or action is
 2039 brought together with a request for an injunction or
 2040 administrative relief or as a separate action, except as
 2041 provided under s. 768.79 or the Florida Rules of Civil
 2042 Procedure. Sections 429.29-429.298 ~~400.429-400.4303~~ provide the
 2043 exclusive remedy for a cause of action for recovery of damages
 2044 for the personal injury or death of a resident arising out of
 2045 negligence or a violation of rights specified in s. 429.28
 2046 ~~400.428~~. This section does not preclude theories of recovery not
 2047 arising out of negligence or s. 429.28 ~~400.428~~ which are
 2048 available to a resident or to the agency. The provisions of
 2049 chapter 766 do not apply to any cause of action brought under
 2050 ss. 429.29-429.298 ~~400.429-400.4303~~.

2051 (2) In any claim brought pursuant to this chapter part
 2052 alleging a violation of resident's rights or negligence causing
 2053 injury to or the death of a resident, the claimant shall have
 2054 the burden of proving, by a preponderance of the evidence, that:

- 2055 (a) The defendant owed a duty to the resident;
- 2056 (b) The defendant breached the duty to the resident;
- 2057 (c) The breach of the duty is a legal cause of loss,
 2058 injury, death, or damage to the resident; and
- 2059 (d) The resident sustained loss, injury, death, or damage
 2060 as a result of the breach.

2061
 2062 Nothing in this chapter part shall be interpreted to create
 2063 strict liability. A violation of the rights set forth in s.
 2064 429.28 ~~400.428~~ or in any other standard or guidelines specified
 2065 in this chapter part or in any applicable administrative
 2066 standard or guidelines of this state or a federal regulatory
 2067 agency shall be evidence of negligence but shall not be
 2068 considered negligence per se.

2069 (7) The resident or the resident's legal representative
 2070 shall serve a copy of any complaint alleging in whole or in part
 2071 a violation of any rights specified in this chapter part to the
 2072 Agency for Health Care Administration at the time of filing the
 2073 initial complaint with the clerk of the court for the county in
 2074 which the action is pursued. The requirement of providing a copy
 2075 of the complaint to the agency does not impair the resident's
 2076 legal rights or ability to seek relief for his or her claim.

2077 Section 58. Section 400.4293, Florida Statutes, is
 2078 renumbered as section 429.293, Florida Statutes, and paragraph

2079 (a) of subsection (1) and subsections (2) and (10) are amended
 2080 to read:

2081 429.293 ~~400.4293~~ Presuit notice; investigation;
 2082 notification of violation of residents' rights or alleged
 2083 negligence; claims evaluation procedure; informal discovery;
 2084 review; settlement offer; mediation.--

2085 (1) As used in this section, the term:

2086 (a) "Claim for residents' rights violation or negligence"
 2087 means a negligence claim alleging injury to or the death of a
 2088 resident arising out of an asserted violation of the rights of a
 2089 resident under s. 429.28 ~~400.428~~ or an asserted deviation from
 2090 the applicable standard of care.

2091 (2) Prior to filing a claim for a violation of a
 2092 resident's rights or a claim for negligence, a claimant alleging
 2093 injury to or the death of a resident shall notify each
 2094 prospective defendant by certified mail, return receipt
 2095 requested, of an asserted violation of a resident's rights
 2096 provided in s. 429.28 ~~400.428~~ or deviation from the standard of
 2097 care. Such notification shall include an identification of the
 2098 rights the prospective defendant has violated and the negligence
 2099 alleged to have caused the incident or incidents and a brief
 2100 description of the injuries sustained by the resident which are
 2101 reasonably identifiable at the time of notice. The notice shall
 2102 contain a certificate of counsel that counsel's reasonable
 2103 investigation gave rise to a good faith belief that grounds
 2104 exist for an action against each prospective defendant.

2105 (10) To the extent not inconsistent with this chapter
 2106 ~~part~~, the provisions of the Florida Mediation Code, Florida

2107 Rules of Civil Procedure, shall be applicable to such
 2108 proceedings.

2109 Section 59. Section 400.4294, Florida Statutes, is
 2110 renumbered as section 429.294, Florida Statutes, and subsection
 2111 (1) is amended to read:

2112 429.294 ~~400.4294~~ Availability of facility records for
 2113 investigation of resident's rights violations and defenses;
 2114 penalty.--

2115 (1) Failure to provide complete copies of a resident's
 2116 records, including, but not limited to, all medical records and
 2117 the resident's chart, within the control or possession of the
 2118 facility within 10 days, in accordance with the provisions of s.
 2119 400.145, shall constitute evidence of failure of that party to
 2120 comply with good faith discovery requirements and shall waive
 2121 the good faith certificate and presuit notice requirements under
 2122 this chapter ~~part~~ by the requesting party.

2123 Section 60. Section 400.4295, Florida Statutes, is
 2124 renumbered as section 429.295, Florida Statutes, and amended to
 2125 read:

2126 429.295 ~~400.4295~~ Certain provisions not applicable to
 2127 actions under this chapter ~~part~~.--An action under this chapter
 2128 ~~part~~ for a violation of rights or negligence recognized herein
 2129 is not a claim for medical malpractice, and the provisions of s.
 2130 768.21(8) do not apply to a claim alleging death of the
 2131 resident.

2132 Section 61. Section 400.4296, Florida Statutes, is
 2133 renumbered as section 429.296, Florida Statutes, and subsection
 2134 (1) is amended to read:

2135 429.296 ~~400.4296~~ Statute of limitations.--

2136 (1) Any action for damages brought under this chapter ~~part~~
 2137 shall be commenced within 2 years from the time the incident
 2138 giving rise to the action occurred or within 2 years from the
 2139 time the incident is discovered, or should have been discovered
 2140 with the exercise of due diligence; however, in no event shall
 2141 the action be commenced later than 4 years from the date of the
 2142 incident or occurrence out of which the cause of action accrued.

2143 Section 62. Section 400.4297, Florida Statutes, is
 2144 renumbered as section 429.297, Florida Statutes, and subsection
 2145 (1) is amended to read:

2146 429.297 ~~400.4297~~ Punitive damages; pleading; burden of
 2147 proof.--

2148 (1) In any action for damages brought under this chapter
 2149 ~~part~~, no claim for punitive damages shall be permitted unless
 2150 there is a reasonable showing by evidence in the record or
 2151 proffered by the claimant which would provide a reasonable basis
 2152 for recovery of such damages. The claimant may move to amend her
 2153 or his complaint to assert a claim for punitive damages as
 2154 allowed by the rules of civil procedure. The rules of civil
 2155 procedure shall be liberally construed so as to allow the
 2156 claimant discovery of evidence which appears reasonably
 2157 calculated to lead to admissible evidence on the issue of
 2158 punitive damages. No discovery of financial worth shall proceed
 2159 until after the pleading concerning punitive damages is
 2160 permitted.

2161 Section 63. Section 400.431, Florida Statutes, is
 2162 renumbered as section 429.31, Florida Statutes, and subsections
 2163 (1) and (5) are amended to read:

2164 429.31 ~~400.431~~ Closing of facility; notice; penalty.--

2165 (1) Whenever a facility voluntarily discontinues
 2166 operation, it shall inform the agency in writing at least 90
 2167 days prior to the discontinuance of operation. The facility
 2168 shall also inform each resident or the next of kin, legal
 2169 representative, or agency acting on each resident's behalf, of
 2170 the fact and the proposed time of such discontinuance, following
 2171 the notification requirements provided in s. 429.28

2172 ~~400.428~~(1)(k). In the event a resident has no person to
 2173 represent him or her, the facility shall be responsible for
 2174 referral to an appropriate social service agency for placement.

2175 (5) The agency may levy a fine in an amount no greater
 2176 than \$5,000 upon each person or business entity that owns any
 2177 interest in a facility that terminates operation without
 2178 providing notice to the agency and the residents of the facility
 2179 at least 30 days before operation ceases. This fine shall not be
 2180 levied against any facility involuntarily closed at the
 2181 initiation of the agency. The agency shall use the proceeds of
 2182 the fines to operate the facility until all residents of the
 2183 facility are relocated and shall deposit any balance of the
 2184 proceeds into the Health Care Trust Fund established pursuant to
 2185 s. 429.18 ~~400.418~~.

2186 Section 64. Section 400.434, Florida Statutes, is
 2187 renumbered as section 429.34, Florida Statutes, and amended to
 2188 read:

2189 429.34 ~~400.434~~ Right of entry and inspection.--Any duly
 2190 designated officer or employee of the department, the Department
 2191 of Children and Family Services, the agency, the Medicaid Fraud
 2192 Control Unit of the Department of Legal Affairs, the state or
 2193 local fire marshal, or a member of the state or local long-term
 2194 care ombudsman council shall have the right to enter unannounced
 2195 upon and into the premises of any facility licensed pursuant to
 2196 this chapter ~~part~~ in order to determine the state of compliance
 2197 with the provisions of this chapter ~~part~~ and of rules or
 2198 standards in force pursuant thereto. The right of entry and
 2199 inspection shall also extend to any premises which the agency
 2200 has reason to believe is being operated or maintained as a
 2201 facility without a license; but no such entry or inspection of
 2202 any premises may be made without the permission of the owner or
 2203 person in charge thereof, unless a warrant is first obtained
 2204 from the circuit court authorizing such entry. The warrant
 2205 requirement shall extend only to a facility which the agency has
 2206 reason to believe is being operated or maintained as a facility
 2207 without a license. Any application for a license or renewal
 2208 thereof made pursuant to this chapter ~~part~~ shall constitute
 2209 permission for, and complete acquiescence in, any entry or
 2210 inspection of the premises for which the license is sought, in
 2211 order to facilitate verification of the information submitted on
 2212 or in connection with the application; to discover, investigate,
 2213 and determine the existence of abuse or neglect; or to elicit,
 2214 receive, respond to, and resolve complaints. Any current valid
 2215 license shall constitute unconditional permission for, and
 2216 complete acquiescence in, any entry or inspection of the

2217 premises by authorized personnel. The agency shall retain the
 2218 right of entry and inspection of facilities that have had a
 2219 license revoked or suspended within the previous 24 months, to
 2220 ensure that the facility is not operating unlawfully. However,
 2221 before entering the facility, a statement of probable cause must
 2222 be filed with the director of the agency, who must approve or
 2223 disapprove the action within 48 hours. Probable cause shall
 2224 include, but is not limited to, evidence that the facility holds
 2225 itself out to the public as a provider of personal care services
 2226 or the receipt of a complaint by the long-term care ombudsman
 2227 council about the facility. Data collected by the state or local
 2228 long-term care ombudsman councils or the state or local advocacy
 2229 councils may be used by the agency in investigations involving
 2230 violations of regulatory standards.

2231 Section 65. Section 400.441, Florida Statutes, is
 2232 renumbered as section 429.41, Florida Statutes, and subsections
 2233 (1) and (2), paragraph (b) of subsection (3), and subsection (5)
 2234 are amended to read:

2235 429.41 ~~400.441~~ Rules establishing standards.--

2236 (1) It is the intent of the Legislature that rules
 2237 published and enforced pursuant to this section shall include
 2238 criteria by which a reasonable and consistent quality of
 2239 resident care and quality of life may be ensured and the results
 2240 of such resident care may be demonstrated. Such rules shall
 2241 also ensure a safe and sanitary environment that is residential
 2242 and noninstitutional in design or nature. It is further
 2243 intended that reasonable efforts be made to accommodate the
 2244 needs and preferences of residents to enhance the quality of

2245 | life in a facility. In order to provide safe and sanitary
 2246 | facilities and the highest quality of resident care
 2247 | accommodating the needs and preferences of residents, the
 2248 | department, in consultation with the agency, the Department of
 2249 | Children and Family Services, and the Department of Health,
 2250 | shall adopt rules, policies, and procedures to administer this
 2251 | chapter part, which must include reasonable and fair minimum
 2252 | standards in relation to:

2253 | (a) The requirements for and maintenance of facilities,
 2254 | not in conflict with the provisions of chapter 553, relating to
 2255 | plumbing, heating, cooling, lighting, ventilation, living space,
 2256 | and other housing conditions, which will ensure the health,
 2257 | safety, and comfort of residents and protection from fire
 2258 | hazard, including adequate provisions for fire alarm and other
 2259 | fire protection suitable to the size of the structure. Uniform
 2260 | firesafety standards shall be established and enforced by the
 2261 | State Fire Marshal in cooperation with the agency, the
 2262 | department, and the Department of Health.

2263 | 1. Evacuation capability determination.--

2264 | a. The provisions of the National Fire Protection
 2265 | Association, NFPA 101A, Chapter 5, 1995 edition, shall be used
 2266 | for determining the ability of the residents, with or without
 2267 | staff assistance, to relocate from or within a licensed facility
 2268 | to a point of safety as provided in the fire codes adopted
 2269 | herein. An evacuation capability evaluation for initial
 2270 | licensure shall be conducted within 6 months after the date of
 2271 | licensure. For existing licensed facilities that are not
 2272 | equipped with an automatic fire sprinkler system, the

2273 administrator shall evaluate the evacuation capability of
2274 residents at least annually. The evacuation capability
2275 evaluation for each facility not equipped with an automatic fire
2276 sprinkler system shall be validated, without liability, by the
2277 State Fire Marshal, by the local fire marshal, or by the local
2278 authority having jurisdiction over firesafety, before the
2279 license renewal date. If the State Fire Marshal, local fire
2280 marshal, or local authority having jurisdiction over firesafety
2281 has reason to believe that the evacuation capability of a
2282 facility as reported by the administrator may have changed, it
2283 may, with assistance from the facility administrator, reevaluate
2284 the evacuation capability through timed exiting drills.

2285 Translation of timed fire exiting drills to evacuation
2286 capability may be determined:

2287 (I) Three minutes or less: prompt.

2288 (II) More than 3 minutes, but not more than 13 minutes:
2289 slow.

2290 (III) More than 13 minutes: impractical.

2291 b. The Office of the State Fire Marshal shall provide or
2292 cause the provision of training and education on the proper
2293 application of Chapter 5, NFPA 101A, 1995 edition, to its
2294 employees, to staff of the Agency for Health Care Administration
2295 who are responsible for regulating facilities under this chapter
2296 ~~part~~, and to local governmental inspectors. The Office of the
2297 State Fire Marshal shall provide or cause the provision of this
2298 training within its existing budget, but may charge a fee for
2299 this training to offset its costs. The initial training must be

2300 delivered within 6 months after July 1, 1995, and as needed
 2301 thereafter.

2302 c. The Office of the State Fire Marshal, in cooperation
 2303 with provider associations, shall provide or cause the provision
 2304 of a training program designed to inform facility operators on
 2305 how to properly review bid documents relating to the
 2306 installation of automatic fire sprinklers. The Office of the
 2307 State Fire Marshal shall provide or cause the provision of this
 2308 training within its existing budget, but may charge a fee for
 2309 this training to offset its costs. The initial training must be
 2310 delivered within 6 months after July 1, 1995, and as needed
 2311 thereafter.

2312 d. The administrator of a licensed facility shall sign an
 2313 affidavit verifying the number of residents occupying the
 2314 facility at the time of the evacuation capability evaluation.

2315 2. Firesafety requirements.--

2316 a. Except for the special applications provided herein,
 2317 effective January 1, 1996, the provisions of the National Fire
 2318 Protection Association, Life Safety Code, NFPA 101, 1994
 2319 edition, Chapter 22 for new facilities and Chapter 23 for
 2320 existing facilities shall be the uniform fire code applied by
 2321 the State Fire Marshal for assisted living facilities, pursuant
 2322 to s. 633.022.

2323 b. Any new facility, regardless of size, that applies for
 2324 a license on or after January 1, 1996, must be equipped with an
 2325 automatic fire sprinkler system. The exceptions as provided in
 2326 section 22-2.3.5.1, NFPA 101, 1994 edition, as adopted herein,
 2327 apply to any new facility housing eight or fewer residents. On

2328 July 1, 1995, local governmental entities responsible for the
2329 issuance of permits for construction shall inform, without
2330 liability, any facility whose permit for construction is
2331 obtained prior to January 1, 1996, of this automatic fire
2332 sprinkler requirement. As used in this chapter ~~part~~, the term "a
2333 new facility" does not mean an existing facility that has
2334 undergone change of ownership.

2335 c. Notwithstanding any provision of s. 633.022 or of the
2336 National Fire Protection Association, NFPA 101A, Chapter 5, 1995
2337 edition, to the contrary, any existing facility housing eight or
2338 fewer residents is not required to install an automatic fire
2339 sprinkler system, nor to comply with any other requirement in
2340 Chapter 23, NFPA 101, 1994 edition, that exceeds the firesafety
2341 requirements of NFPA 101, 1988 edition, that applies to this
2342 size facility, unless the facility has been classified as
2343 impractical to evacuate. Any existing facility housing eight or
2344 fewer residents that is classified as impractical to evacuate
2345 must install an automatic fire sprinkler system within the
2346 timeframes granted in this section.

2347 d. Any existing facility that is required to install an
2348 automatic fire sprinkler system under this paragraph need not
2349 meet other firesafety requirements of Chapter 23, NFPA 101, 1994
2350 edition, which exceed the provisions of NFPA 101, 1988 edition.
2351 The mandate contained in this paragraph which requires certain
2352 facilities to install an automatic fire sprinkler system
2353 supersedes any other requirement.

2354 e. This paragraph does not supersede the exceptions
2355 granted in NFPA 101, 1988 edition or 1994 edition.

2356 f. This paragraph does not exempt facilities from other
 2357 firesafety provisions adopted under s. 633.022 and local
 2358 building code requirements in effect before July 1, 1995.

2359 g. A local government may charge fees only in an amount
 2360 not to exceed the actual expenses incurred by local government
 2361 relating to the installation and maintenance of an automatic
 2362 fire sprinkler system in an existing and properly licensed
 2363 assisted living facility structure as of January 1, 1996.

2364 h. If a licensed facility undergoes major reconstruction
 2365 or addition to an existing building on or after January 1, 1996,
 2366 the entire building must be equipped with an automatic fire
 2367 sprinkler system. Major reconstruction of a building means
 2368 repair or restoration that costs in excess of 50 percent of the
 2369 value of the building as reported on the tax rolls, excluding
 2370 land, before reconstruction. Multiple reconstruction projects
 2371 within a 5-year period the total costs of which exceed 50
 2372 percent of the initial value of the building at the time the
 2373 first reconstruction project was permitted are to be considered
 2374 as major reconstruction. Application for a permit for an
 2375 automatic fire sprinkler system is required upon application for
 2376 a permit for a reconstruction project that creates costs that go
 2377 over the 50-percent threshold.

2378 i. Any facility licensed before January 1, 1996, that is
 2379 required to install an automatic fire sprinkler system shall
 2380 ensure that the installation is completed within the following
 2381 timeframes based upon evacuation capability of the facility as
 2382 determined under subparagraph 1.:

2383 (I) Impractical evacuation capability, 24 months.

2384 (II) Slow evacuation capability, 48 months.

2385 (III) Prompt evacuation capability, 60 months.

2386

2387 The beginning date from which the deadline for the automatic
 2388 fire sprinkler installation requirement must be calculated is
 2389 upon receipt of written notice from the local fire official that
 2390 an automatic fire sprinkler system must be installed. The local
 2391 fire official shall send a copy of the document indicating the
 2392 requirement of a fire sprinkler system to the Agency for Health
 2393 Care Administration.

2394 j. It is recognized that the installation of an automatic
 2395 fire sprinkler system may create financial hardship for some
 2396 facilities. The appropriate local fire official shall, without
 2397 liability, grant two 1-year extensions to the timeframes for
 2398 installation established herein, if an automatic fire sprinkler
 2399 installation cost estimate and proof of denial from two
 2400 financial institutions for a construction loan to install the
 2401 automatic fire sprinkler system are submitted. However, for any
 2402 facility with a class I or class II, or a history of uncorrected
 2403 class III, firesafety deficiencies, an extension must not be
 2404 granted. The local fire official shall send a copy of the
 2405 document granting the time extension to the Agency for Health
 2406 Care Administration.

2407 k. A facility owner whose facility is required to be
 2408 equipped with an automatic fire sprinkler system under Chapter
 2409 23, NFPA 101, 1994 edition, as adopted herein, must disclose to
 2410 any potential buyer of the facility that an installation of an
 2411 automatic fire sprinkler requirement exists. The sale of the

2412 facility does not alter the timeframe for the installation of
 2413 the automatic fire sprinkler system.

2414 1. Existing facilities required to install an automatic
 2415 fire sprinkler system as a result of construction-type
 2416 restrictions in Chapter 23, NFPA 101, 1994 edition, as adopted
 2417 herein, or evacuation capability requirements shall be notified
 2418 by the local fire official in writing of the automatic fire
 2419 sprinkler requirement, as well as the appropriate date for final
 2420 compliance as provided in this subparagraph. The local fire
 2421 official shall send a copy of the document to the Agency for
 2422 Health Care Administration.

2423 m. Except in cases of life-threatening fire hazards, if an
 2424 existing facility experiences a change in the evacuation
 2425 capability, or if the local authority having jurisdiction
 2426 identifies a construction-type restriction, such that an
 2427 automatic fire sprinkler system is required, it shall be
 2428 afforded time for installation as provided in this subparagraph.

2429
 2430 Facilities that are fully sprinkled and in compliance with other
 2431 firesafety standards are not required to conduct more than one
 2432 of the required fire drills between the hours of 11 p.m. and 7
 2433 a.m., per year. In lieu of the remaining drills, staff
 2434 responsible for residents during such hours may be required to
 2435 participate in a mock drill that includes a review of evacuation
 2436 procedures. Such standards must be included or referenced in the
 2437 rules adopted by the State Fire Marshal. Pursuant to s.
 2438 633.022(1)(b), the State Fire Marshal is the final
 2439 administrative authority for firesafety standards established

2440 and enforced pursuant to this section. All licensed facilities
2441 must have an annual fire inspection conducted by the local fire
2442 marshal or authority having jurisdiction.

2443 3. Resident elopement requirements.--Facilities are
2444 required to conduct a minimum of two resident elopement
2445 prevention and response drills per year. All administrators and
2446 direct care staff must participate in the drills which shall
2447 include a review of procedures to address resident elopement.
2448 Facilities must document the implementation of the drills and
2449 ensure that the drills are conducted in a manner consistent with
2450 the facility's resident elopement policies and procedures.

2451 (b) The preparation and annual update of a comprehensive
2452 emergency management plan. Such standards must be included in
2453 the rules adopted by the department after consultation with the
2454 Department of Community Affairs. At a minimum, the rules must
2455 provide for plan components that address emergency evacuation
2456 transportation; adequate sheltering arrangements; postdisaster
2457 activities, including provision of emergency power, food, and
2458 water; postdisaster transportation; supplies; staffing;
2459 emergency equipment; individual identification of residents and
2460 transfer of records; communication with families; and responses
2461 to family inquiries. The comprehensive emergency management
2462 plan is subject to review and approval by the local emergency
2463 management agency. During its review, the local emergency
2464 management agency shall ensure that the following agencies, at a
2465 minimum, are given the opportunity to review the plan: the
2466 Department of Elderly Affairs, the Department of Health, the
2467 Agency for Health Care Administration, and the Department of

2468 Community Affairs. Also, appropriate volunteer organizations
 2469 must be given the opportunity to review the plan. The local
 2470 emergency management agency shall complete its review within 60
 2471 days and either approve the plan or advise the facility of
 2472 necessary revisions.

2473 (c) The number, training, and qualifications of all
 2474 personnel having responsibility for the care of residents. The
 2475 rules must require adequate staff to provide for the safety of
 2476 all residents. Facilities licensed for 17 or more residents are
 2477 required to maintain an alert staff for 24 hours per day.

2478 (d) All sanitary conditions within the facility and its
 2479 surroundings which will ensure the health and comfort of
 2480 residents. The rules must clearly delineate the
 2481 responsibilities of the agency's licensure and survey staff, the
 2482 county health departments, and the local authority having
 2483 jurisdiction over fire safety and ensure that inspections are
 2484 not duplicative. The agency may collect fees for food service
 2485 inspections conducted by the county health departments and
 2486 transfer such fees to the Department of Health.

2487 (e) License application and license renewal, transfer of
 2488 ownership, proper management of resident funds and personal
 2489 property, surety bonds, resident contracts, refund policies,
 2490 financial ability to operate, and facility and staff records.

2491 (f) Inspections, complaint investigations, moratoriums,
 2492 classification of deficiencies, levying and enforcement of
 2493 penalties, and use of income from fees and fines.

2494 (g) The enforcement of the resident bill of rights
 2495 specified in s. 429.28 ~~400-428~~.

2496 (h) The care and maintenance of residents, which must
 2497 include, but is not limited to:

- 2498 1. The supervision of residents;
- 2499 2. The provision of personal services;
- 2500 3. The provision of, or arrangement for, social and
 2501 leisure activities;
- 2502 4. The arrangement for appointments and transportation to
 2503 appropriate medical, dental, nursing, or mental health services,
 2504 as needed by residents;
- 2505 5. The management of medication;
- 2506 6. The nutritional needs of residents;
- 2507 7. Resident records; and
- 2508 8. Internal risk management and quality assurance.

2509 (i) Facilities holding a limited nursing, extended
 2510 congregate care, or limited mental health license.

2511 (j) The establishment of specific criteria to define
 2512 appropriateness of resident admission and continued residency in
 2513 a facility holding a standard, limited nursing, extended
 2514 congregate care, and limited mental health license.

2515 (k) The use of physical or chemical restraints. The use
 2516 of physical restraints is limited to half-bed rails as
 2517 prescribed and documented by the resident's physician with the
 2518 consent of the resident or, if applicable, the resident's
 2519 representative or designee or the resident's surrogate,
 2520 guardian, or attorney in fact. The use of chemical restraints
 2521 is limited to prescribed dosages of medications authorized by
 2522 the resident's physician and must be consistent with the
 2523 resident's diagnosis. Residents who are receiving medications

2524 that can serve as chemical restraints must be evaluated by their
 2525 physician at least annually to assess:

- 2526 1. The continued need for the medication.
- 2527 2. The level of the medication in the resident's blood.
- 2528 3. The need for adjustments in the prescription.

2529 (1) The establishment of specific policies and procedures
 2530 on resident elopement. Facilities shall conduct a minimum of two
 2531 resident elopement drills each year. All administrators and
 2532 direct care staff shall participate in the drills. Facilities
 2533 shall document the drills.

2534 (2) In adopting any rules pursuant to this chapter ~~part~~,
 2535 the department, in conjunction with the agency, shall make
 2536 distinct standards for facilities based upon facility size; the
 2537 types of care provided; the physical and mental capabilities and
 2538 needs of residents; the type, frequency, and amount of services
 2539 and care offered; and the staffing characteristics of the
 2540 facility. Rules developed pursuant to this section shall not
 2541 restrict the use of shared staffing and shared programming in
 2542 facilities that are part of retirement communities that provide
 2543 multiple levels of care and otherwise meet the requirements of
 2544 law and rule. Except for uniform firesafety standards, the
 2545 department shall adopt by rule separate and distinct standards
 2546 for facilities with 16 or fewer beds and for facilities with 17
 2547 or more beds. The standards for facilities with 16 or fewer
 2548 beds shall be appropriate for a noninstitutional residential
 2549 environment, provided that the structure is no more than two
 2550 stories in height and all persons who cannot exit the facility
 2551 unassisted in an emergency reside on the first floor. The

2552 department, in conjunction with the agency, may make other
2553 distinctions among types of facilities as necessary to enforce
2554 the provisions of this chapter ~~part~~. Where appropriate, the
2555 agency shall offer alternate solutions for complying with
2556 established standards, based on distinctions made by the
2557 department and the agency relative to the physical
2558 characteristics of facilities and the types of care offered
2559 therein.

2560 (3) The department shall submit a copy of proposed rules
2561 to the Speaker of the House of Representatives, the President of
2562 the Senate, and appropriate committees of substance for review
2563 and comment prior to the promulgation thereof.

2564 (b) The agency, in consultation with the department, may
2565 waive rules promulgated pursuant to this chapter ~~part~~ in order
2566 to demonstrate and evaluate innovative or cost-effective
2567 congregate care alternatives which enable individuals to age in
2568 place. Such waivers may be granted only in instances where
2569 there is reasonable assurance that the health, safety, or
2570 welfare of residents will not be endangered. To apply for a
2571 waiver, the licensee shall submit to the agency a written
2572 description of the concept to be demonstrated, including goals,
2573 objectives, and anticipated benefits; the number and types of
2574 residents who will be affected, if applicable; a brief
2575 description of how the demonstration will be evaluated; and any
2576 other information deemed appropriate by the agency. Any
2577 facility granted a waiver shall submit a report of findings to
2578 the agency and the department within 12 months. At such time,
2579 the agency may renew or revoke the waiver or pursue any

2580 regulatory or statutory changes necessary to allow other
 2581 facilities to adopt the same practices. The department may by
 2582 rule clarify terms and establish waiver application procedures,
 2583 criteria for reviewing waiver proposals, and procedures for
 2584 reporting findings, as necessary to implement this subsection.

2585 (5) A fee shall be charged by the department to any person
 2586 requesting a copy of this chapter part or rules promulgated
 2587 under this chapter part. Such fees shall not exceed the actual
 2588 cost of duplication and postage.

2589 Section 66. Section 400.442, Florida Statutes, is
 2590 renumbered as section 429.42, Florida Statutes, and subsections
 2591 (1) and (3) are amended to read:

2592 429.42 ~~400.442~~ Pharmacy and dietary services.--

2593 (1) Any assisted living facility in which the agency has
 2594 documented a class I or class II deficiency or uncorrected class
 2595 III deficiencies regarding medicinal drugs or over-the-counter
 2596 preparations, including their storage, use, delivery, or
 2597 administration, or dietary services, or both, during a biennial
 2598 survey or a monitoring visit or an investigation in response to
 2599 a complaint, shall, in addition to or as an alternative to any
 2600 penalties imposed under s. 429.19 ~~400.419~~, be required to employ
 2601 the consultant services of a licensed pharmacist, a licensed
 2602 registered nurse, or a registered or licensed dietitian, as
 2603 applicable. The consultant shall, at a minimum, provide onsite
 2604 quarterly consultation until the inspection team from the agency
 2605 determines that such consultation services are no longer
 2606 required.

2607 (3) The agency shall employ at least two pharmacists
 2608 licensed pursuant to chapter 465 among its personnel who
 2609 biennially inspect assisted living facilities licensed under
 2610 this chapter part, to participate in biennial inspections or
 2611 consult with the agency regarding deficiencies relating to
 2612 medicinal drugs or over-the-counter preparations.

2613 Section 67. Section 400.444, Florida Statutes, is
 2614 renumbered as section 429.44, Florida Statutes, and subsection
 2615 (2) is amended to read:

2616 429.44 ~~400.444~~ Construction and renovation;
 2617 requirements.--

2618 (2) Upon notification by the local authority having
 2619 jurisdiction over life-threatening violations which seriously
 2620 threaten the health, safety, or welfare of a resident of a
 2621 facility, the agency shall take action as specified in s. 429.14
 2622 ~~400.414~~.

2623 Section 68. Section 400.4445, Florida Statutes, is
 2624 renumbered as section 429.445, Florida Statutes, and amended to
 2625 read:

2626 429.445 ~~400.4445~~ Compliance with local zoning
 2627 requirements.--No facility licensed under this chapter part may
 2628 commence any construction which will expand the size of the
 2629 existing structure unless the licensee first submits to the
 2630 agency proof that such construction will be in compliance with
 2631 applicable local zoning requirements. Facilities with a
 2632 licensed capacity of less than 15 persons shall comply with the
 2633 provisions of chapter 419.

2634 Section 69. Section 400.447, Florida Statutes, is
 2635 renumbered as section 429.47, Florida Statutes, and subsections
 2636 (2), (5), and (7) are amended to read:

2637 429.47 ~~400.447~~ Prohibited acts; penalties for violation.--

2638 (2) It is unlawful for any holder of a license issued
 2639 pursuant to the provisions of this act to withhold from the
 2640 agency any evidence of financial instability, including, but not
 2641 limited to, bad checks, delinquent accounts, nonpayment of
 2642 withholding taxes, unpaid utility expenses, nonpayment for
 2643 essential services, or adverse court action concerning the
 2644 financial viability of the facility or any other facility
 2645 licensed under part II of chapter 400 or under ~~part III~~ of this
 2646 chapter which is owned by the licensee.

2647 (5) A freestanding facility shall not advertise or imply
 2648 that any part of it is a nursing home. For the purpose of this
 2649 subsection, "freestanding facility" means a facility that is not
 2650 operated in conjunction with a nursing home to which residents
 2651 of the facility are given priority when nursing care is
 2652 required. A person who violates this subsection is subject to
 2653 fine as specified in s. 429.19 ~~400.419~~.

2654 (7) A facility licensed under this chapter ~~part~~ which is
 2655 not part of a facility authorized under chapter 651 shall
 2656 include the facility's license number as given by the agency in
 2657 all advertising. A company or person owning more than one
 2658 facility shall include at least one license number per
 2659 advertisement. All advertising shall include the term "assisted
 2660 living facility" before the license number.

2661 Section 70. Section 400.451, Florida Statutes, is
 2662 renumbered as section 429.51, Florida Statutes, and amended to
 2663 read:

2664 429.51 ~~400.451~~ Existing facilities to be given reasonable
 2665 time to comply with rules and standards.--Any facility as
 2666 defined in this chapter ~~part~~ which is in operation at the time
 2667 of promulgation of any applicable rules or standards adopted or
 2668 amended pursuant to this chapter ~~part~~ may be given a reasonable
 2669 time, not to exceed 6 months, within which to comply with such
 2670 rules and standards.

2671 Section 71. Section 400.452, Florida Statutes, is
 2672 renumbered as section 429.52, Florida Statutes, and subsections
 2673 (3) and (5) are amended to read:

2674 429.52 ~~400.452~~ Staff training and educational programs;
 2675 core educational requirement.--

2676 (3) Effective January 1, 2004, a new facility
 2677 administrator must complete the required training and education,
 2678 including the competency test, within a reasonable time after
 2679 being employed as an administrator, as determined by the
 2680 department. Failure to do so is a violation of this chapter ~~part~~
 2681 and subjects the violator to an administrative fine as
 2682 prescribed in s. 429.19 ~~400.419~~. Administrators licensed in
 2683 accordance with chapter 468, part II, are exempt from this
 2684 requirement. Other licensed professionals may be exempted, as
 2685 determined by the department by rule.

2686 (5) Staff involved with the management of medications and
 2687 assisting with the self-administration of medications under s.
 2688 429.256 ~~400.4256~~ must complete a minimum of 4 additional hours

2689 of training provided by a registered nurse, licensed pharmacist,
 2690 or department staff. The department shall establish by rule the
 2691 minimum requirements of this additional training.

2692 Section 72. Section 400.453, Florida Statutes, is
 2693 renumbered as section 429.53, Florida Statutes, and paragraph
 2694 (b) of subsection (1) and paragraphs (a), (e), and (f) of
 2695 subsection (2) are amended to read:

2696 429.53 ~~400.453~~ Consultation by the agency.--

2697 (1) The area offices of licensure and certification of the
 2698 agency shall provide consultation to the following upon request:

2699 (b) A person interested in obtaining a license to operate
 2700 a facility under this chapter ~~part~~.

2701 (2) As used in this section, "consultation" includes:

2702 (a) An explanation of the requirements of this chapter
 2703 ~~part~~ and rules adopted pursuant thereto;

2704 (e) Any other information which the agency deems necessary
 2705 to promote compliance with the requirements of this chapter
 2706 ~~part~~; and

2707 (f) A preconstruction review of a facility to ensure
 2708 compliance with agency rules and this chapter ~~part~~.

2709 Section 73. Subsections (1), (7), and (15) of section
 2710 400.462, Florida Statutes, are amended to read:

2711 400.462 Definitions.--As used in this part, the term:

2712 (1) "Administrator" means a direct employee of the home
 2713 health agency or a related organization, or of a management
 2714 company that has a contract to manage the home health agency, to
 2715 whom the governing body has delegated the responsibility for
 2716 day-to-day administration of the home health agency. The

2717 administrator must be a licensed physician, physician assistant,
 2718 or registered nurse licensed to practice in this state or an
 2719 individual having at least 1 year of supervisory or
 2720 administrative experience in home health care or in a facility
 2721 licensed under chapter 395, ~~or~~ under part II ~~or part III~~ of this
 2722 chapter, or under chapter 429. An administrator may manage a
 2723 maximum of five licensed home health agencies located within one
 2724 agency service district or within an immediately contiguous
 2725 county. If the home health agency is licensed under this chapter
 2726 and is part of a retirement community that provides multiple
 2727 levels of care, an employee of the retirement community may
 2728 administer the home health agency and up to a maximum of four
 2729 entities licensed under this chapter or chapter 429 that are
 2730 owned, operated, or managed by the same corporate entity. An
 2731 administrator shall designate, in writing, for each licensed
 2732 entity, a qualified alternate administrator to serve during
 2733 absences.

2734 (7) "Director of nursing" means a registered nurse and
 2735 direct employee of the agency or related business entity who is
 2736 a graduate of an approved school of nursing and is licensed in
 2737 this state; who has at least 1 year of supervisory experience as
 2738 a registered nurse in a licensed home health agency, a facility
 2739 licensed under chapter 395, or a facility licensed under part II
 2740 ~~or part III~~ of this chapter or under chapter 429; and who is
 2741 responsible for overseeing the professional nursing and home
 2742 health aid delivery of services of the agency. An employee may
 2743 be the director of nursing of a maximum of five licensed home
 2744 health agencies operated by a related business entity and

2745 | located within one agency service district or within an
 2746 | immediately contiguous county. If the home health agency is
 2747 | licensed under this chapter and is part of a retirement
 2748 | community that provides multiple levels of care, an employee of
 2749 | the retirement community may serve as the director of nursing of
 2750 | the home health agency and of up to four entities licensed under
 2751 | this chapter or chapter 429 which are owned, operated, or
 2752 | managed by the same corporate entity. A director of nursing
 2753 | shall designate, in writing, for each licensed entity, a
 2754 | qualified alternate registered nurse to serve during the absence
 2755 | of the director of nursing.

2756 | (15) "Nurse registry" means any person that procures,
 2757 | offers, promises, or attempts to secure health-care-related
 2758 | contracts for registered nurses, licensed practical nurses,
 2759 | certified nursing assistants, home health aides, companions, or
 2760 | homemakers, who are compensated by fees as independent
 2761 | contractors, including, but not limited to, contracts for the
 2762 | provision of services to patients and contracts to provide
 2763 | private duty or staffing services to health care facilities
 2764 | licensed under chapter 395, ~~or~~ this chapter, or chapter 429, or
 2765 | other business entities.

2766 | Section 74. Paragraph (h) of subsection (5) of section
 2767 | 400.464, Florida Statutes, is amended to read:

2768 | 400.464 Home health agencies to be licensed; expiration of
 2769 | license; exemptions; unlawful acts; penalties.--

2770 | (5) The following are exempt from the licensure
 2771 | requirements of this part:

2772 (h) The delivery of assisted living facility services for
 2773 which the assisted living facility is licensed under ~~part III of~~
 2774 ~~this~~ chapter 429, to serve its residents in its facility.

2775 Section 75. Subsection (2) of section 400.497, Florida
 2776 Statutes, is amended to read:

2777 400.497 Rules establishing minimum standards.--The agency
 2778 shall adopt, publish, and enforce rules to implement this part,
 2779 including, as applicable, ss. 400.506 and 400.509, which must
 2780 provide reasonable and fair minimum standards relating to:

2781 (2) Shared staffing. The agency shall allow shared
 2782 staffing if the home health agency is part of a retirement
 2783 community that provides multiple levels of care, is located on
 2784 one campus, is licensed under this chapter or chapter 429, and
 2785 otherwise meets the requirements of law and rule.

2786 Section 76. Section 400.552, Florida Statutes, is amended
 2787 to read:

2788 400.552 Applicability.--Any facility that comes within the
 2789 definition of an adult day care center which is not exempt under
 2790 s. 429.905 ~~400.553~~ must be licensed by the agency as an adult
 2791 day care center.

2792 Section 77. Subsection (1) and paragraph (d) of subsection
 2793 (2) of section 400.555, Florida Statutes, are amended to read:

2794 400.555 Application for license.--

2795 (1) An application for a license to operate an adult day
 2796 care center must be made to the agency on forms furnished by the
 2797 agency and must be accompanied by the appropriate license fee
 2798 unless the applicant is exempt from payment of the fee as
 2799 provided in s. 429.907(4) ~~400.554(4)~~.

2800 (2) The applicant for licensure must furnish:

2801 (d) Proof of compliance with level 2 background screening
 2802 as required under s. 429.919 ~~400.5572~~.

2803 Section 78. Paragraph (c) of subsection (2) of section
 2804 400.556, Florida Statutes, is amended to read:

2805 400.556 Denial, suspension, revocation of license;
 2806 administrative fines; investigations and inspections.--

2807 (2) Each of the following actions by the owner of an adult
 2808 day care center or by its operator or employee is a ground for
 2809 action by the agency against the owner of the center or its
 2810 operator or employee:

2811 (c) A failure of persons subject to level 2 background
 2812 screening under s. 429.174 ~~400.4174~~(1) to meet the screening
 2813 standards of s. 435.04, or the retention by the center of an
 2814 employee subject to level 1 background screening standards under
 2815 s. 429.174 ~~400.4174~~(2) who does not meet the screening standards
 2816 of s. 435.03 and for whom exemptions from disqualification have
 2817 not been provided by the agency.

2818 Section 79. Subsection (1) of section 400.557, Florida
 2819 Statutes, is amended to read:

2820 400.557 Expiration of license; renewal; conditional
 2821 license or permit.--

2822 (1) A license issued for the operation of an adult day
 2823 care center, unless sooner suspended or revoked, expires 2 years
 2824 after the date of issuance. The agency shall notify a licensee
 2825 at least 120 days before the expiration date that license
 2826 renewal is required to continue operation. The notification must
 2827 be provided electronically or by mail delivery. At least 90 days

2828 prior to the expiration date, an application for renewal must be
 2829 submitted to the agency. A license shall be renewed, upon the
 2830 filing of an application on forms furnished by the agency, if
 2831 the applicant has first met the requirements of this part and of
 2832 the rules adopted under this part. The applicant must file with
 2833 the application satisfactory proof of financial ability to
 2834 operate the center in accordance with the requirements of this
 2835 part and in accordance with the needs of the participants to be
 2836 served and an affidavit of compliance with the background
 2837 screening requirements of s. 429.919 ~~400.5572~~.

2838 Section 80. Paragraph (c) of subsection (2) of section
 2839 400.5572, Florida Statutes, is amended to read:

2840 400.5572 Background screening.--

2841 (2) The owner or administrator of an adult day care center
 2842 must conduct level 1 background screening as set forth in
 2843 chapter 435 on all employees hired on or after October 1, 1998,
 2844 who provide basic services or supportive and optional services
 2845 to the participants. Such persons satisfy this requirement if:

2846 (c) The person required to be screened is employed by a
 2847 corporation or business entity or related corporation or
 2848 business entity that owns, operates, or manages more than one
 2849 facility or agency licensed under this chapter or chapter 429,
 2850 and for whom a level 1 screening was conducted by the
 2851 corporation or business entity as a condition of initial or
 2852 continued employment.

2853 Section 81. Subsection (5) of section 400.601, Florida
 2854 Statutes, is amended to read:

2855 400.601 Definitions.--As used in this part, the term:

2856 (5) "Hospice residential unit" means a homelike living
 2857 facility, other than a facility licensed under other parts of
 2858 this chapter, ~~or~~ under chapter 395, or under chapter 429, that
 2859 is operated by a hospice for the benefit of its patients and is
 2860 considered by a patient who lives there to be his or her primary
 2861 residence.

2862 Section 82. Paragraph (c) of subsection (2) of section
 2863 400.618, Florida Statutes, is amended to read:

2864 400.618 Definitions.--As used in this part, the term:

2865 (2) "Adult family-care home" means a full-time, family-
 2866 type living arrangement, in a private home, under which a person
 2867 who owns or rents the home provides room, board, and personal
 2868 care, on a 24-hour basis, for no more than five disabled adults
 2869 or frail elders who are not relatives. The following family-type
 2870 living arrangements are not required to be licensed as an adult
 2871 family-care home:

2872 (c) An establishment that is licensed as an assisted
 2873 living facility under chapter 429 ~~part III~~.

2874 Section 83. Subsection (1) of section 400.6194, Florida
 2875 Statutes, is amended to read:

2876 400.6194 Denial, revocation, or suspension of a
 2877 license.--The agency may deny, suspend, or revoke a license for
 2878 any of the following reasons:

2879 (1) Failure of any of the persons required to undergo
 2880 background screening under s. 429.67 ~~400.619~~ to meet the level 1
 2881 screening standards of s. 435.03, unless an exemption from
 2882 disqualification has been provided by the agency.

2883 Section 84. Paragraph (h) of subsection (1) of section
 2884 400.621, Florida Statutes, is amended to read:

2885 400.621 Rules and standards relating to adult family-care
 2886 homes.--

2887 (1) The department, in consultation with the Department of
 2888 Health, the Department of Children and Family Services, and the
 2889 agency shall, by rule, establish minimum standards to ensure the
 2890 health, safety, and well-being of each resident in the adult
 2891 family-care home. The rules must address:

2892 (h) Procedures to protect the residents' rights as
 2893 provided in s. 429.85 ~~400.628~~.

2894 Section 85. Paragraph (f) of subsection (1) of section
 2895 400.628, Florida Statutes, is amended to read:

2896 429.85 ~~400.628~~ Residents' bill of rights.--

2897 (1) A resident of an adult family-care home may not be
 2898 deprived of any civil or legal rights, benefits, or privileges
 2899 guaranteed by law, the State Constitution, or the Constitution
 2900 of the United States solely by reason of status as a resident of
 2901 the home. Each resident has the right to:

2902 (f) Manage the resident's own financial affairs unless the
 2903 resident or the resident's guardian authorizes the provider to
 2904 provide safekeeping for funds in accordance with procedures
 2905 equivalent to those provided in s. 429.27 ~~400.427~~.

2906 Section 86. Paragraph (c) of subsection (5) of section
 2907 400.93, Florida Statutes, is amended to read:

2908 400.93 Licensure required; exemptions; unlawful acts;
 2909 penalties.--

2910 (5) The following are exempt from home medical equipment
 2911 provider licensure, unless they have a separate company,
 2912 corporation, or division that is in the business of providing
 2913 home medical equipment and services for sale or rent to
 2914 consumers at their regular or temporary place of residence
 2915 pursuant to the provisions of this part:

2916 (c) Assisted living facilities licensed under chapter 429
 2917 ~~part III~~, when serving their residents.

2918 Section 87. Subsection (3) and paragraph (c) of subsection
 2919 (10) of section 400.962, Florida Statutes, are amended to read:
 2920 400.962 License required; license application.--

2921 (3) The basic license fee collected shall be deposited in
 2922 the Health Care Trust Fund, established for carrying out the
 2923 purposes of this chapter or chapter 429.

2924 (10)

2925 (c) Proof of compliance with the level 2 background
 2926 screening requirements of chapter 435 which has been submitted
 2927 within the previous 5 years in compliance with any other
 2928 licensure requirements under this chapter or chapter 429
 2929 satisfies the requirements of paragraph (a). Proof of compliance
 2930 with background screening which has been submitted within the
 2931 previous 5 years to fulfill the requirements of the Financial
 2932 Services Commission and the Office of Insurance Regulation under
 2933 chapter 651 as part of an application for a certificate of
 2934 authority to operate a continuing care retirement community
 2935 satisfies the requirements for the Department of Law Enforcement
 2936 and Federal Bureau of Investigation background checks.

2937 Section 88. Paragraph (b) of subsection (1) of section
 2938 400.980, Florida Statutes, is amended to read:

2939 400.980 Health care services pools.--

2940 (1) As used in this section, the term:

2941 (b) "Health care services pool" means any person, firm,
 2942 corporation, partnership, or association engaged for hire in the
 2943 business of providing temporary employment in health care
 2944 facilities, residential facilities, and agencies for licensed,
 2945 certified, or trained health care personnel including, without
 2946 limitation, nursing assistants, nurses' aides, and orderlies.
 2947 However, the term does not include nursing registries, a
 2948 facility licensed under this chapter or chapter 429 ~~400~~, a
 2949 health care services pool established within a health care
 2950 facility to provide services only within the confines of such
 2951 facility, or any individual contractor directly providing
 2952 temporary services to a health care facility without use or
 2953 benefit of a contracting agent.

2954 Section 89. Paragraphs (a), (b), (c), and (d) of
 2955 subsection (4) of section 400.9905, Florida Statutes, are
 2956 amended to read:

2957 400.9905 Definitions.--

2958 (4) "Clinic" means an entity at which health care services
 2959 are provided to individuals and which tenders charges for
 2960 reimbursement for such services, including a mobile clinic and a
 2961 portable equipment provider. For purposes of this part, the term
 2962 does not include and the licensure requirements of this part do
 2963 not apply to:

2964 (a) Entities licensed or registered by the state under
 2965 chapter 395; or entities licensed or registered by the state and
 2966 providing only health care services within the scope of services
 2967 authorized under their respective licenses granted under ss.
 2968 383.30-383.335, chapter 390, chapter 394, chapter 397, this
 2969 chapter except part XIII, chapter 429, chapter 463, chapter 465,
 2970 chapter 466, chapter 478, part I of chapter 483, chapter 484, or
 2971 chapter 651; end-stage renal disease providers authorized under
 2972 42 C.F.R. part 405, subpart U; or providers certified under 42
 2973 C.F.R. part 485, subpart B or subpart H; or any entity that
 2974 provides neonatal or pediatric hospital-based health care
 2975 services by licensed practitioners solely within a hospital
 2976 licensed under chapter 395.

2977 (b) Entities that own, directly or indirectly, entities
 2978 licensed or registered by the state pursuant to chapter 395; or
 2979 entities that own, directly or indirectly, entities licensed or
 2980 registered by the state and providing only health care services
 2981 within the scope of services authorized pursuant to their
 2982 respective licenses granted under ss. 383.30-383.335, chapter
 2983 390, chapter 394, chapter 397, this chapter except part XIII,
 2984 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
 2985 part I of chapter 483, chapter 484, chapter 651; end-stage renal
 2986 disease providers authorized under 42 C.F.R. part 405, subpart
 2987 U; or providers certified under 42 C.F.R. part 485, subpart B or
 2988 subpart H; or any entity that provides neonatal or pediatric
 2989 hospital-based health care services by licensed practitioners
 2990 solely within a hospital licensed under chapter 395.

2991 (c) Entities that are owned, directly or indirectly, by an
 2992 entity licensed or registered by the state pursuant to chapter
 2993 395; or entities that are owned, directly or indirectly, by an
 2994 entity licensed or registered by the state and providing only
 2995 health care services within the scope of services authorized
 2996 pursuant to their respective licenses granted under ss. 383.30-
 2997 383.335, chapter 390, chapter 394, chapter 397, this chapter
 2998 except part XIII, chapter 429, chapter 463, chapter 465, chapter
 2999 466, chapter 478, part I of chapter 483, chapter 484, or chapter
 3000 651; end-stage renal disease providers authorized under 42
 3001 C.F.R. part 405, subpart U; or providers certified under 42
 3002 C.F.R. part 485, subpart B or subpart H; or any entity that
 3003 provides neonatal or pediatric hospital-based health care
 3004 services by licensed practitioners solely within a hospital
 3005 under chapter 395.

3006 (d) Entities that are under common ownership, directly or
 3007 indirectly, with an entity licensed or registered by the state
 3008 pursuant to chapter 395; or entities that are under common
 3009 ownership, directly or indirectly, with an entity licensed or
 3010 registered by the state and providing only health care services
 3011 within the scope of services authorized pursuant to their
 3012 respective licenses granted under ss. 383.30-383.335, chapter
 3013 390, chapter 394, chapter 397, this chapter except part XIII,
 3014 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
 3015 part I of chapter 483, chapter 484, or chapter 651; end-stage
 3016 renal disease providers authorized under 42 C.F.R. part 405,
 3017 subpart U; or providers certified under 42 C.F.R. part 485,
 3018 subpart B or subpart H; or any entity that provides neonatal or

3019 pediatric hospital-based health care services by licensed
 3020 practitioners solely within a hospital licensed under chapter
 3021 395.

3022 Section 90. Subsection (6) of section 400.9935, Florida
 3023 Statutes, is amended to read:

3024 400.9935 Clinic responsibilities.--

3025 (6) Any licensed health care provider who violates this
 3026 part is subject to discipline in accordance with this chapter or
 3027 chapter 429 and his or her respective practice act.

3028 Section 91. Subsection (12) of section 401.23, Florida
 3029 Statutes, is amended to read:

3030 401.23 Definitions.--As used in this part, the term:

3031 (12) "Interfacility transfer" means the transportation by
 3032 ambulance of a patient between two facilities licensed under
 3033 chapter 393, chapter 395, ~~or~~ chapter 400, or chapter 429,
 3034 pursuant to this part.

3035 Section 92. Paragraph (b) of subsection (2) of section
 3036 402.164, Florida Statutes, is amended to read:

3037 402.164 Legislative intent; definitions.--

3038 (2) As used in ss. 402.164-402.167, the term:

3039 (b) "Client" means a client as defined in s. 393.063, s.
 3040 394.67, s. 397.311, or s. 400.960, a forensic client or client
 3041 as defined in s. 916.106, a child or youth as defined in s.
 3042 39.01, a child as defined in s. 827.01, a family as defined in
 3043 s. 414.0252, a participant as defined in s. 429.901 ~~400.551~~, a
 3044 resident as defined in s. 429.02 ~~400.402~~, a Medicaid recipient
 3045 or recipient as defined in s. 409.901, a child receiving child
 3046 care as defined in s. 402.302, a disabled adult as defined in s.

3047 | 410.032 or s. 410.603, or a victim as defined in s. 39.01 or s.
 3048 | 415.102 as each definition applies within its respective
 3049 | chapter.

3050 | Section 93. Paragraph (b) of subsection (2) of section
 3051 | 408.033, Florida Statutes, is amended to read:

3052 | 408.033 Local and state health planning.--

3053 | (2) FUNDING.--

3054 | (b)1. A hospital licensed under chapter 395, a nursing
 3055 | home licensed under chapter 400, and an assisted living facility
 3056 | licensed under chapter 429 ~~400~~ shall be assessed an annual fee
 3057 | based on number of beds.

3058 | 2. All other facilities and organizations listed in
 3059 | paragraph (a) shall each be assessed an annual fee of \$150.

3060 | 3. Facilities operated by the Department of Children and
 3061 | Family Services, the Department of Health, or the Department of
 3062 | Corrections and any hospital which meets the definition of rural
 3063 | hospital pursuant to s. 395.602 are exempt from the assessment
 3064 | required in this subsection.

3065 | Section 94. Subsection (3) of section 408.831, Florida
 3066 | Statutes, is amended to read:

3067 | 408.831 Denial, suspension, or revocation of a license,
 3068 | registration, certificate, or application.--

3069 | (3) This section provides standards of enforcement
 3070 | applicable to all entities licensed or regulated by the Agency
 3071 | for Health Care Administration. This section controls over any
 3072 | conflicting provisions of chapters 39, 381, 383, 390, 391, 393,
 3073 | 394, 395, 400, 408, 429, 468, 483, and 641 or rules adopted
 3074 | pursuant to those chapters.

3075 Section 95. Subsection (2) of section 409.212, Florida
 3076 Statutes, is amended to read:

3077 409.212 Optional supplementation.--

3078 (2) The base rate of payment for optional state
 3079 supplementation shall be established by the department within
 3080 funds appropriated. Additional amounts may be provided for
 3081 mental health residents in facilities designed to provide
 3082 limited mental health services as provided for in s. 429.075
 3083 ~~400.4075~~. The base rate of payment does not include the personal
 3084 needs allowance.

3085 Section 96. Paragraph (e) of subsection (4) of section
 3086 409.221, Florida Statutes, is amended to read:

3087 409.221 Consumer-directed care program.--

3088 (4) CONSUMER-DIRECTED CARE.--

3089 (e) Services.--Consumers shall use the budget allowance
 3090 only to pay for home and community-based services that meet the
 3091 consumer's long-term care needs and are a cost-efficient use of
 3092 funds. Such services may include, but are not limited to, the
 3093 following:

3094 1. Personal care.

3095 2. Homemaking and chores, including housework, meals,
 3096 shopping, and transportation.

3097 3. Home modifications and assistive devices which may
 3098 increase the consumer's independence or make it possible to
 3099 avoid institutional placement.

3100 4. Assistance in taking self-administered medication.

3101 5. Day care and respite care services, including those
 3102 provided by nursing home facilities pursuant to s. 400.141(6) or

3103 | by adult day care facilities licensed pursuant to s. 429.907
 3104 | ~~400.554~~.

3105 | 6. Personal care and support services provided in an
 3106 | assisted living facility.

3107 | Section 97. Subsection (7) and paragraph (a) of subsection
 3108 | (8) of section 409.907, Florida Statutes, are amended to read:

3109 | 409.907 Medicaid provider agreements.--The agency may make
 3110 | payments for medical assistance and related services rendered to
 3111 | Medicaid recipients only to an individual or entity who has a
 3112 | provider agreement in effect with the agency, who is performing
 3113 | services or supplying goods in accordance with federal, state,
 3114 | and local law, and who agrees that no person shall, on the
 3115 | grounds of handicap, race, color, or national origin, or for any
 3116 | other reason, be subjected to discrimination under any program
 3117 | or activity for which the provider receives payment from the
 3118 | agency.

3119 | (7) The agency may require, as a condition of
 3120 | participating in the Medicaid program and before entering into
 3121 | the provider agreement, that the provider submit information, in
 3122 | an initial and any required renewal applications, concerning the
 3123 | professional, business, and personal background of the provider
 3124 | and permit an onsite inspection of the provider's service
 3125 | location by agency staff or other personnel designated by the
 3126 | agency to perform this function. The agency shall perform a
 3127 | random onsite inspection, within 60 days after receipt of a
 3128 | fully complete new provider's application, of the provider's
 3129 | service location prior to making its first payment to the
 3130 | provider for Medicaid services to determine the applicant's

3131 ability to provide the services that the applicant is proposing
3132 to provide for Medicaid reimbursement. The agency is not
3133 required to perform an onsite inspection of a provider or
3134 program that is licensed by the agency, that provides services
3135 under waiver programs for home and community-based services, or
3136 that is licensed as a medical foster home by the Department of
3137 Children and Family Services. As a continuing condition of
3138 participation in the Medicaid program, a provider shall
3139 immediately notify the agency of any current or pending
3140 bankruptcy filing. Before entering into the provider agreement,
3141 or as a condition of continuing participation in the Medicaid
3142 program, the agency may also require that Medicaid providers
3143 reimbursed on a fee-for-services basis or fee schedule basis
3144 which is not cost-based, post a surety bond not to exceed
3145 \$50,000 or the total amount billed by the provider to the
3146 program during the current or most recent calendar year,
3147 whichever is greater. For new providers, the amount of the
3148 surety bond shall be determined by the agency based on the
3149 provider's estimate of its first year's billing. If the
3150 provider's billing during the first year exceeds the bond
3151 amount, the agency may require the provider to acquire an
3152 additional bond equal to the actual billing level of the
3153 provider. A provider's bond shall not exceed \$50,000 if a
3154 physician or group of physicians licensed under chapter 458,
3155 chapter 459, or chapter 460 has a 50 percent or greater
3156 ownership interest in the provider or if the provider is an
3157 assisted living facility licensed under ~~part III of~~ chapter 429
3158 ~~400~~. The bonds permitted by this section are in addition to the

3159 | bonds referenced in s. 400.179(4)(d). If the provider is a
 3160 | corporation, partnership, association, or other entity, the
 3161 | agency may require the provider to submit information concerning
 3162 | the background of that entity and of any principal of the
 3163 | entity, including any partner or shareholder having an ownership
 3164 | interest in the entity equal to 5 percent or greater, and any
 3165 | treating provider who participates in or intends to participate
 3166 | in Medicaid through the entity. The information must include:

3167 | (a) Proof of holding a valid license or operating
 3168 | certificate, as applicable, if required by the state or local
 3169 | jurisdiction in which the provider is located or if required by
 3170 | the Federal Government.

3171 | (b) Information concerning any prior violation, fine,
 3172 | suspension, termination, or other administrative action taken
 3173 | under the Medicaid laws, rules, or regulations of this state or
 3174 | of any other state or the Federal Government; any prior
 3175 | violation of the laws, rules, or regulations relating to the
 3176 | Medicare program; any prior violation of the rules or
 3177 | regulations of any other public or private insurer; and any
 3178 | prior violation of the laws, rules, or regulations of any
 3179 | regulatory body of this or any other state.

3180 | (c) Full and accurate disclosure of any financial or
 3181 | ownership interest that the provider, or any principal, partner,
 3182 | or major shareholder thereof, may hold in any other Medicaid
 3183 | provider or health care related entity or any other entity that
 3184 | is licensed by the state to provide health or residential care
 3185 | and treatment to persons.

3186 (d) If a group provider, identification of all members of
3187 the group and attestation that all members of the group are
3188 enrolled in or have applied to enroll in the Medicaid program.

3189 (8) (a) Each provider, or each principal of the provider if
3190 the provider is a corporation, partnership, association, or
3191 other entity, seeking to participate in the Medicaid program
3192 must submit a complete set of his or her fingerprints to the
3193 agency for the purpose of conducting a criminal history record
3194 check. Principals of the provider include any officer,
3195 director, billing agent, managing employee, or affiliated
3196 person, or any partner or shareholder who has an ownership
3197 interest equal to 5 percent or more in the provider. However, a
3198 director of a not-for-profit corporation or organization is not
3199 a principal for purposes of a background investigation as
3200 required by this section if the director: serves solely in a
3201 voluntary capacity for the corporation or organization, does not
3202 regularly take part in the day-to-day operational decisions of
3203 the corporation or organization, receives no remuneration from
3204 the not-for-profit corporation or organization for his or her
3205 service on the board of directors, has no financial interest in
3206 the not-for-profit corporation or organization, and has no
3207 family members with a financial interest in the not-for-profit
3208 corporation or organization; and if the director submits an
3209 affidavit, under penalty of perjury, to this effect to the
3210 agency and the not-for-profit corporation or organization
3211 submits an affidavit, under penalty of perjury, to this effect
3212 to the agency as part of the corporation's or organization's
3213 Medicaid provider agreement application. Notwithstanding the

3214 | above, the agency may require a background check for any person
 3215 | reasonably suspected by the agency to have been convicted of a
 3216 | crime. This subsection shall not apply to:

- 3217 | 1. A hospital licensed under chapter 395;
- 3218 | 2. A nursing home licensed under chapter 400;
- 3219 | 3. A hospice licensed under chapter 400;
- 3220 | 4. An assisted living facility licensed under chapter 429
 3221 | ~~400~~.

3222 | 5. A unit of local government, except that requirements of
 3223 | this subsection apply to nongovernmental providers and entities
 3224 | when contracting with the local government to provide Medicaid
 3225 | services. The actual cost of the state and national criminal
 3226 | history record checks must be borne by the nongovernmental
 3227 | provider or entity; or

3228 | 6. Any business that derives more than 50 percent of its
 3229 | revenue from the sale of goods to the final consumer, and the
 3230 | business or its controlling parent either is required to file a
 3231 | form 10-K or other similar statement with the Securities and
 3232 | Exchange Commission or has a net worth of \$50 million or more.

3233 | Section 98. Section 410.031, Florida Statutes, is amended
 3234 | to read:

3235 | 410.031 Legislative intent.--It is the intent of the
 3236 | Legislature to encourage the provision of care for disabled
 3237 | adults in family-type living arrangements in private homes as an
 3238 | alternative to institutional or nursing home care for such
 3239 | persons. The provisions of ss. 410.031-410.036 are intended to
 3240 | be supplemental to the provisions of chapters ~~chapter~~ 400 and
 3241 | 429, relating to the licensing and regulation of nursing homes

3242 and assisted living facilities, and do not exempt any person who
3243 is otherwise subject to regulation under chapter 400 or chapter
3244 429.

3245 Section 99. Section 410.034, Florida Statutes, is amended
3246 to read:

3247 410.034 Department determination of fitness to provide
3248 home care.--In accordance with s. 429.02 ~~400.402~~, a person
3249 caring for an adult who is related to such person by blood or
3250 marriage is not subject to the Assisted Living Facilities Act.
3251 If, however, the person who plans to provide home care under
3252 this act is found by the department to be unable to provide this
3253 care, the department shall notify the person wishing to provide
3254 home care of this determination, and the person shall not be
3255 eligible for subsidy payments under ss. 410.031-410.036.

3256 Section 100. Section 415.1111, Florida Statutes, is
3257 amended to read:

3258 415.1111 Civil actions.--A vulnerable adult who has been
3259 abused, neglected, or exploited as specified in this chapter has
3260 a cause of action against any perpetrator and may recover actual
3261 and punitive damages for such abuse, neglect, or exploitation.
3262 The action may be brought by the vulnerable adult, or that
3263 person's guardian, by a person or organization acting on behalf
3264 of the vulnerable adult with the consent of that person or that
3265 person's guardian, or by the personal representative of the
3266 estate of a deceased victim without regard to whether the cause
3267 of death resulted from the abuse, neglect, or exploitation. The
3268 action may be brought in any court of competent jurisdiction to
3269 enforce such action and to recover actual and punitive damages

3270 | for any deprivation of or infringement on the rights of a
 3271 | vulnerable adult. A party who prevails in any such action may
 3272 | be entitled to recover reasonable attorney's fees, costs of the
 3273 | action, and damages. The remedies provided in this section are
 3274 | in addition to and cumulative with other legal and
 3275 | administrative remedies available to a vulnerable adult.
 3276 | Notwithstanding the foregoing, any civil action for damages
 3277 | against any licensee or entity who establishes, controls,
 3278 | conducts, manages, or operates a facility licensed under part II
 3279 | of chapter 400 relating to its operation of the licensed
 3280 | facility shall be brought pursuant to s. 400.023, or against any
 3281 | licensee or entity who establishes, controls, conducts, manages,
 3282 | or operates a facility licensed under ~~part III~~ of chapter 429
 3283 | ~~400~~ relating to its operation of the licensed facility shall be
 3284 | brought pursuant to s. 429.29 ~~400.429~~. Such licensee or entity
 3285 | shall not be vicariously liable for the acts or omissions of its
 3286 | employees or agents or any other third party in an action
 3287 | brought under this section.

3288 | Section 101. Paragraph (d) of subsection (1) of section
 3289 | 419.001, Florida Statutes, is amended to read:

3290 | 419.001 Site selection of community residential homes.--

3291 | (1) For the purposes of this section, the following
 3292 | definitions shall apply:

3293 | (d) "Resident" means any of the following: a frail elder
 3294 | as defined in s. 429.65 ~~400.618~~; a physically disabled or
 3295 | handicapped person as defined in s. 760.22(7)(a); a
 3296 | developmentally disabled person as defined in s. 393.063; a
 3297 | nondangerous mentally ill person as defined in s. 394.455(18);

3298 or a child as defined in s. 39.01(14), s. 984.03(9) or (12), or
 3299 s. 985.03(8).

3300 Section 102. Section 430.601, Florida Statutes, is amended
 3301 to read:

3302 430.601 Home care for the elderly; legislative intent.--It
 3303 is the intent of the Legislature to encourage the provision of
 3304 care for the elderly in family-type living arrangements in
 3305 private homes as an alternative to institutional or nursing home
 3306 care for such persons. The provisions of ss. 430.601-430.606 are
 3307 intended to be supplemental to the provisions of chapters
 3308 ~~chapter~~ 400 and 429, relating to the licensing and regulation of
 3309 nursing homes and assisted living facilities, and do not exempt
 3310 any person who is otherwise subject to regulation under those
 3311 chapters ~~the provisions of that chapter~~.

3312 Section 103. Subsection (7) of section 430.703, Florida
 3313 Statutes, is amended to read:

3314 430.703 Definitions.--As used in this act, the term:

3315 (7) "Other qualified provider" means an entity licensed
 3316 under chapter 400 or chapter 429 that demonstrates a long-term
 3317 care continuum and meets all requirements pursuant to an
 3318 interagency agreement between the agency and the department.

3319 Section 104. Paragraph (a) of subsection (3) of section
 3320 435.03, Florida Statutes, is amended to read:

3321 435.03 Level 1 screening standards.--

3322 (3) Standards must also ensure that the person:

3323 (a) For employees and employers licensed or registered
 3324 pursuant to chapter 400 or chapter 429, and for employees and
 3325 employers of developmental services institutions as defined in

3326 s. 393.063, intermediate care facilities for the developmentally
 3327 disabled as defined in s. 393.063, and mental health treatment
 3328 facilities as defined in s. 394.455, meets the requirements of
 3329 this chapter.

3330 Section 105. Paragraph (a) of subsection (4) of section
 3331 435.04, Florida Statutes, is amended to read:

3332 435.04 Level 2 screening standards.--

3333 (4) Standards must also ensure that the person:

3334 (a) For employees or employers licensed or registered
 3335 pursuant to chapter 400 or chapter 429, does not have a
 3336 confirmed report of abuse, neglect, or exploitation as defined
 3337 in s. 415.102(6), which has been uncontested or upheld under s.
 3338 415.103.

3339 Section 106. Paragraph (g) of subsection (1) of section
 3340 440.13, Florida Statutes, is amended to read:

3341 440.13 Medical services and supplies; penalty for
 3342 violations; limitations.--

3343 (1) DEFINITIONS.--As used in this section, the term:

3344 (g) "Health care facility" means any hospital licensed
 3345 under chapter 395 and any health care institution licensed under
 3346 chapter 400 or chapter 429.

3347 Section 107. Paragraph (b) of subsection (1) of section
 3348 456.0375, Florida Statutes, is amended to read:

3349 456.0375 Registration of certain clinics; requirements;
 3350 discipline; exemptions.--

3351 (1)

3352 (b) For purposes of this section, the term "clinic" does
3353 not include and the registration requirements herein do not
3354 apply to:

3355 1. Entities licensed or registered by the state pursuant
3356 to chapter 390, chapter 394, chapter 395, chapter 397, chapter
3357 400, chapter 429, chapter 463, chapter 465, chapter 466, chapter
3358 478, chapter 480, chapter 484, or chapter 651.

3359 2. Entities that own, directly or indirectly, entities
3360 licensed or registered by the state pursuant to chapter 390,
3361 chapter 394, chapter 395, chapter 397, chapter 400, chapter 429,
3362 chapter 463, chapter 465, chapter 466, chapter 478, chapter 480,
3363 chapter 484, or chapter 651.

3364 3. Entities that are owned, directly or indirectly, by an
3365 entity licensed or registered by the state pursuant to chapter
3366 390, chapter 394, chapter 395, chapter 397, chapter 400, chapter
3367 429, chapter 463, chapter 465, chapter 466, chapter 478, chapter
3368 480, chapter 484, or chapter 651.

3369 4. Entities that are under common ownership, directly or
3370 indirectly, with an entity licensed or registered by the state
3371 pursuant to chapter 390, chapter 394, chapter 395, chapter 397,
3372 chapter 400, chapter 429, chapter 463, chapter 465, chapter 466,
3373 chapter 478, chapter 480, chapter 484, or chapter 651.

3374 5. Entities exempt from federal taxation under 26 U.S.C.
3375 s. 501(c)(3) and community college and university clinics.

3376 6. Sole proprietorships, group practices, partnerships, or
3377 corporations that provide health care services by licensed
3378 health care practitioners pursuant to chapters 457, 458, 459,
3379 460, 461, 462, 463, 466, 467, 484, 486, 490, 491, or part I,

3380 part III, part X, part XIII, or part XIV of chapter 468, or s.
 3381 464.012, which are wholly owned by licensed health care
 3382 practitioners or the licensed health care practitioner and the
 3383 spouse, parent, or child of a licensed health care practitioner,
 3384 so long as one of the owners who is a licensed health care
 3385 practitioner is supervising the services performed therein and
 3386 is legally responsible for the entity's compliance with all
 3387 federal and state laws. However, no health care practitioner may
 3388 supervise services beyond the scope of the practitioner's
 3389 license.

3390 7. Clinical facilities affiliated with an accredited
 3391 medical school at which training is provided for medical
 3392 students, residents, or fellows.

3393 Section 108. Subsection (1) of section 465.0235, Florida
 3394 Statutes, is amended to read:

3395 465.0235 Automated pharmacy systems used by long-term care
 3396 facilities, hospices, or state correctional institutions.--

3397 (1) A pharmacy may provide pharmacy services to a long-
 3398 term care facility or hospice licensed under chapter 400 or
 3399 chapter 429 or a state correctional institution operated under
 3400 chapter 944 through the use of an automated pharmacy system that
 3401 need not be located at the same location as the pharmacy.

3402 Section 109. Paragraph (k) of subsection (1) of section
 3403 468.505, Florida Statutes, is amended to read:

3404 468.505 Exemptions; exceptions.--

3405 (1) Nothing in this part may be construed as prohibiting
 3406 or restricting the practice, services, or activities of:

3407 (k) A person employed by a hospital licensed under chapter
3408 395, or by a nursing home or assisted living facility licensed
3409 under part II ~~or part III~~ of chapter 400 or under chapter 429,
3410 or by a continuing care facility certified under chapter 651, if
3411 the person is employed in compliance with the laws and rules
3412 adopted thereunder regarding the operation of its dietetic
3413 department.

3414 Section 110. Subsection (11) of section 477.025, Florida
3415 Statutes, is amended to read:

3416 477.025 Cosmetology salons; specialty salons; requisites;
3417 licensure; inspection; mobile cosmetology salons.--

3418 (11) Facilities licensed under part II ~~or part III~~ of
3419 chapter 400 or under chapter 429 shall be exempt from the
3420 provisions of this section and a cosmetologist licensed pursuant
3421 to s. 477.019 may provide salon services exclusively for
3422 facility residents.

3423 Section 111. Paragraph (a) of subsection (2) of section
3424 509.032, Florida Statutes, is amended to read:

3425 509.032 Duties.--

3426 (2) INSPECTION OF PREMISES.--

3427 (a) The division has responsibility and jurisdiction for
3428 all inspections required by this chapter. The division has
3429 responsibility for quality assurance. Each licensed
3430 establishment shall be inspected at least biannually, except for
3431 transient and nontransient apartments, which shall be inspected
3432 at least annually, and shall be inspected at such other times as
3433 the division determines is necessary to ensure the public's
3434 health, safety, and welfare. The division shall establish a

3435 system to determine inspection frequency. Public lodging units
 3436 classified as resort condominiums or resort dwellings are not
 3437 subject to this requirement, but shall be made available to the
 3438 division upon request. If, during the inspection of a public
 3439 lodging establishment classified for renting to transient or
 3440 nontransient tenants, an inspector identifies vulnerable adults
 3441 who appear to be victims of neglect, as defined in s. 415.102,
 3442 or, in the case of a building that is not equipped with
 3443 automatic sprinkler systems, tenants or clients who may be
 3444 unable to self-preserve in an emergency, the division shall
 3445 convene meetings with the following agencies as appropriate to
 3446 the individual situation: the Department of Health, the
 3447 Department of Elderly Affairs, the area agency on aging, the
 3448 local fire marshal, the landlord and affected tenants and
 3449 clients, and other relevant organizations, to develop a plan
 3450 which improves the prospects for safety of affected residents
 3451 and, if necessary, identifies alternative living arrangements
 3452 such as facilities licensed under part II ~~or part III~~ of chapter
 3453 400 or under chapter 429.

3454 Section 112. Subsection (1) of section 509.241, Florida
 3455 Statutes, is amended to read:

3456 509.241 Licenses required; exceptions.--

3457 (1) LICENSES; ANNUAL RENEWALS.--Each public lodging
 3458 establishment and public food service establishment shall obtain
 3459 a license from the division. Such license may not be transferred
 3460 from one place or individual to another. It shall be a
 3461 misdemeanor of the second degree, punishable as provided in s.
 3462 775.082 or s. 775.083, for such an establishment to operate

3463 without a license. Local law enforcement shall provide immediate
 3464 assistance in pursuing an illegally operating establishment. The
 3465 division may refuse a license, or a renewal thereof, to any
 3466 establishment that is not constructed and maintained in
 3467 accordance with law and with the rules of the division. The
 3468 division may refuse to issue a license, or a renewal thereof, to
 3469 any establishment an operator of which, within the preceding 5
 3470 years, has been adjudicated guilty of, or has forfeited a bond
 3471 when charged with, any crime reflecting on professional
 3472 character, including soliciting for prostitution, pandering,
 3473 letting premises for prostitution, keeping a disorderly place,
 3474 or illegally dealing in controlled substances as defined in
 3475 chapter 893, whether in this state or in any other jurisdiction
 3476 within the United States, or has had a license denied, revoked,
 3477 or suspended pursuant to s. 429.14 ~~400.414~~. Licenses shall be
 3478 renewed annually, and the division shall adopt a rule
 3479 establishing a staggered schedule for license renewals. If any
 3480 license expires while administrative charges are pending against
 3481 the license, the proceedings against the license shall continue
 3482 to conclusion as if the license were still in effect.

3483 Section 113. Subsection (1) of section 627.732, Florida
 3484 Statutes, is amended to read:

3485 627.732 Definitions.--As used in ss. 627.730-627.7405, the
 3486 term:

3487 (1) "Broker" means any person not possessing a license
 3488 under chapter 395, chapter 400, chapter 429, chapter 458,
 3489 chapter 459, chapter 460, chapter 461, or chapter 641 who
 3490 charges or receives compensation for any use of medical

3491 equipment and is not the 100-percent owner or the 100-percent
3492 lessee of such equipment. For purposes of this section, such
3493 owner or lessee may be an individual, a corporation, a
3494 partnership, or any other entity and any of its 100-percent-
3495 owned affiliates and subsidiaries. For purposes of this
3496 subsection, the term "lessee" means a long-term lessee under a
3497 capital or operating lease, but does not include a part-time
3498 lessee. The term "broker" does not include a hospital or
3499 physician management company whose medical equipment is
3500 ancillary to the practices managed, a debt collection agency, or
3501 an entity that has contracted with the insurer to obtain a
3502 discounted rate for such services; nor does the term include a
3503 management company that has contracted to provide general
3504 management services for a licensed physician or health care
3505 facility and whose compensation is not materially affected by
3506 the usage or frequency of usage of medical equipment or an
3507 entity that is 100-percent owned by one or more hospitals or
3508 physicians. The term "broker" does not include a person or
3509 entity that certifies, upon request of an insurer, that:

3510 (a) It is a clinic registered under s. 456.0375 or
3511 licensed under ss. 400.990-400.995;

3512 (b) It is a 100-percent owner of medical equipment; and

3513 (c) The owner's only part-time lease of medical equipment
3514 for personal injury protection patients is on a temporary basis
3515 not to exceed 30 days in a 12-month period, and such lease is
3516 solely for the purposes of necessary repair or maintenance of
3517 the 100-percent-owned medical equipment or pending the arrival
3518 and installation of the newly purchased or a replacement for the

3519 | 100-percent-owned medical equipment, or for patients for whom,
 3520 | because of physical size or claustrophobia, it is determined by
 3521 | the medical director or clinical director to be medically
 3522 | necessary that the test be performed in medical equipment that
 3523 | is open-style. The leased medical equipment cannot be used by
 3524 | patients who are not patients of the registered clinic for
 3525 | medical treatment of services. Any person or entity making a
 3526 | false certification under this subsection commits insurance
 3527 | fraud as defined in s. 817.234. However, the 30-day period
 3528 | provided in this paragraph may be extended for an additional 60
 3529 | days as applicable to magnetic resonance imaging equipment if
 3530 | the owner certifies that the extension otherwise complies with
 3531 | this paragraph.

3532 | Section 114. Subsection (2) of section 651.011, Florida
 3533 | Statutes, is amended to read:

3534 | 651.011 Definitions.--For the purposes of this chapter,
 3535 | the term:

3536 | (2) "Continuing care" or "care" means furnishing pursuant
 3537 | to a contract shelter and either nursing care or personal
 3538 | services as defined in s. 429.02 ~~400.402~~, whether such nursing
 3539 | care or personal services are provided in the facility or in
 3540 | another setting designated by the contract for continuing care,
 3541 | to an individual not related by consanguinity or affinity to the
 3542 | provider furnishing such care, upon payment of an entrance fee.
 3543 | Other personal services provided shall be designated in the
 3544 | continuing care contract. Contracts to provide continuing care
 3545 | include agreements to provide care for any duration, including
 3546 | contracts that are terminable by either party.

3547 Section 115. Paragraph (c) of subsection (2) of section
 3548 651.022, Florida Statutes, is amended to read:

3549 651.022 Provisional certificate of authority;
 3550 application.--

3551 (2) The application for a provisional certificate of
 3552 authority shall be on a form prescribed by the commission and
 3553 shall contain the following information:

3554 (c)1. Evidence that the applicant is reputable and of
 3555 responsible character. If the applicant is a firm, association,
 3556 organization, partnership, business trust, corporation, or
 3557 company, the form shall require evidence that the members or
 3558 shareholders are reputable and of responsible character, and the
 3559 person in charge of providing care under a certificate of
 3560 authority shall likewise be required to produce evidence of
 3561 being reputable and of responsible character.

3562 2. Evidence satisfactory to the office of the ability of
 3563 the applicant to comply with the provisions of this chapter and
 3564 with rules adopted by the commission pursuant to this chapter.

3565 3. A statement of whether a person identified in the
 3566 application for a provisional certificate of authority or the
 3567 administrator or manager of the facility, if such person has
 3568 been designated, or any such person living in the same location:

3569 a. Has been convicted of a felony or has pleaded nolo
 3570 contendere to a felony charge, or has been held liable or has
 3571 been enjoined in a civil action by final judgment, if the felony
 3572 or civil action involved fraud, embezzlement, fraudulent
 3573 conversion, or misappropriation of property.

3574 b. Is subject to a currently effective injunctive or
 3575 restrictive order or federal or state administrative order
 3576 relating to business activity or health care as a result of an
 3577 action brought by a public agency or department, including,
 3578 without limitation, an action affecting a license under chapter
 3579 400 or chapter 429.

3580
 3581 The statement shall set forth the court or agency, the date of
 3582 conviction or judgment, and the penalty imposed or damages
 3583 assessed, or the date, nature, and issuer of the order. Before
 3584 determining whether a provisional certificate of authority is to
 3585 be issued, the office may make an inquiry to determine the
 3586 accuracy of the information submitted pursuant to subparagraphs
 3587 1. and 2.

3588 Section 116. Subsection (6) of section 651.023, Florida
 3589 Statutes, is amended to read:

3590 651.023 Certificate of authority; application.--

3591 (6) The timeframes provided under s. 651.022(5) and (6)
 3592 apply to applications submitted under s. 651.021(2). The office
 3593 may not issue a certificate of authority under this chapter to
 3594 any facility which does not have a component which is to be
 3595 licensed pursuant to part II ~~or part III~~ of chapter 400 or to
 3596 chapter 429 or which will not offer personal services or nursing
 3597 services through written contractual agreement. Any written
 3598 contractual agreement must be disclosed in the continuing care
 3599 contract and is subject to the provisions of s. 651.1151,
 3600 relating to administrative, vendor, and management contracts.

3601 Section 117. Subsection (8) of section 651.055, Florida
 3602 Statutes, is amended to read:

3603 651.055 Contracts; right to rescind.--

3604 (8) The provisions of this section shall control over any
 3605 conflicting provisions contained in part II ~~or part III~~ of
 3606 chapter 400 or in chapter 429.

3607 Section 118. Subsection (5) of section 651.095, Florida
 3608 Statutes, is amended to read:

3609 651.095 Advertisements; requirements; penalties.--

3610 (5) The provisions of this section shall control over any
 3611 conflicting provisions contained in part II ~~or part III~~ of
 3612 chapter 400 or in chapter 429.

3613 Section 119. Subsections (1), (4), (6), and (8) of section
 3614 651.118, Florida Statutes, are amended to read:

3615 651.118 Agency for Health Care Administration;
 3616 certificates of need; sheltered beds; community beds.--

3617 (1) The provisions of this section shall control in the
 3618 case of conflict with the provisions of the Health Facility and
 3619 Services Development Act, ss. 408.031-408.045; the provisions of
 3620 chapter 395; ~~or the provisions of part II parts II and III~~ of
 3621 chapter 400; or the provisions of chapter 429.

3622 (4) The Agency for Health Care Administration shall
 3623 approve one sheltered nursing home bed for every four proposed
 3624 residential units, including those that are licensed under
 3625 chapter 429 ~~part III of chapter 400~~, in the continuing care
 3626 facility unless the provider demonstrates the need for a lesser
 3627 number of sheltered nursing home beds based on proposed
 3628 utilization by prospective residents or demonstrates the need

3629 | for additional sheltered nursing home beds based on actual
 3630 | utilization and demand by current residents.

3631 | (6) Unless the provider already has a component that is to
 3632 | be a part of the continuing care facility and that is licensed
 3633 | under chapter 395, ~~or part II or part III~~ of chapter 400, or
 3634 | chapter 429 at the time of construction of the continuing care
 3635 | facility, the provider must construct the nonnursing home
 3636 | portion of the facility and the nursing home portion of the
 3637 | facility at the same time. If a provider constructs less than
 3638 | the number of residential units approved in the certificate of
 3639 | authority, the number of licensed sheltered nursing home beds
 3640 | shall be reduced by a proportionate share.

3641 | (8) A provider may petition the Agency for Health Care
 3642 | Administration to use a designated number of sheltered nursing
 3643 | home beds to provide extended congregate care as defined in s.
 3644 | 429.02 ~~400.402~~ if the beds are in a distinct area of the nursing
 3645 | home which can be adapted to meet the requirements for extended
 3646 | congregate care. The provider may subsequently use such beds as
 3647 | sheltered beds after notifying the agency of the intended
 3648 | change. Any sheltered beds used to provide extended congregate
 3649 | care pursuant to this subsection may not qualify for funding
 3650 | under the Medicaid waiver. Any sheltered beds used to provide
 3651 | extended congregate care pursuant to this subsection may share
 3652 | common areas, services, and staff with beds designated for
 3653 | nursing home care, provided that all of the beds are under
 3654 | common ownership. For the purposes of this subsection, fire and
 3655 | life safety codes applicable to nursing home facilities shall
 3656 | apply.

3657 Section 120. Subsection (2) of section 765.1103, Florida
 3658 Statutes, is amended to read:

3659 765.1103 Pain management and palliative care.--

3660 (2) Health care providers and practitioners regulated
 3661 under chapter 458, chapter 459, or chapter 464 must, as
 3662 appropriate, comply with a request for pain management or
 3663 palliative care from a patient under their care or, for an
 3664 incapacitated patient under their care, from a surrogate, proxy,
 3665 guardian, or other representative permitted to make health care
 3666 decisions for the incapacitated patient. Facilities regulated
 3667 under chapter 395, ~~or~~ chapter 400, or chapter 429 must comply
 3668 with the pain management or palliative care measures ordered by
 3669 the patient's physician.

3670 Section 121. Subsection (2) of section 765.205, Florida
 3671 Statutes, is amended to read:

3672 765.205 Responsibility of the surrogate.--

3673 (2) The surrogate may authorize the release of information
 3674 and medical records to appropriate persons to ensure the
 3675 continuity of the principal's health care and may authorize the
 3676 admission, discharge, or transfer of the principal to or from a
 3677 health care facility or other facility or program licensed under
 3678 chapter 400 or chapter 429.

3679 Section 122. Subsection (1) of section 768.735, Florida
 3680 Statutes, is amended to read:

3681 768.735 Punitive damages; exceptions; limitation.--

3682 (1) Sections 768.72(2)-(4), 768.725, and 768.73 do not
 3683 apply to any civil action based upon child abuse, abuse of the
 3684 elderly under chapter 415, or abuse of the developmentally

3685 disabled. Such actions are governed by applicable statutes and
3686 controlling judicial precedent. This section does not apply to
3687 claims brought pursuant to s. 400.023 or s. 429.29 ~~400.429~~.

3688 Section 123. Paragraph (a) of subsection (4) of section
3689 943.0585, Florida Statutes, is amended to read:

3690 943.0585 Court-ordered expunction of criminal history
3691 records.--The courts of this state have jurisdiction over their
3692 own procedures, including the maintenance, expunction, and
3693 correction of judicial records containing criminal history
3694 information to the extent such procedures are not inconsistent
3695 with the conditions, responsibilities, and duties established by
3696 this section. Any court of competent jurisdiction may order a
3697 criminal justice agency to expunge the criminal history record
3698 of a minor or an adult who complies with the requirements of
3699 this section. The court shall not order a criminal justice
3700 agency to expunge a criminal history record until the person
3701 seeking to expunge a criminal history record has applied for and
3702 received a certificate of eligibility for expunction pursuant to
3703 subsection (2). A criminal history record that relates to a
3704 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
3705 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,
3706 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
3707 s. 916.1075, or a violation enumerated in s. 907.041 may not be
3708 expunged, without regard to whether adjudication was withheld,
3709 if the defendant was found guilty of or pled guilty or nolo
3710 contendere to the offense, or if the defendant, as a minor, was
3711 found to have committed, or pled guilty or nolo contendere to
3712 committing, the offense as a delinquent act. The court may only

3713 | order expunction of a criminal history record pertaining to one
3714 | arrest or one incident of alleged criminal activity, except as
3715 | provided in this section. The court may, at its sole discretion,
3716 | order the expunction of a criminal history record pertaining to
3717 | more than one arrest if the additional arrests directly relate
3718 | to the original arrest. If the court intends to order the
3719 | expunction of records pertaining to such additional arrests,
3720 | such intent must be specified in the order. A criminal justice
3721 | agency may not expunge any record pertaining to such additional
3722 | arrests if the order to expunge does not articulate the
3723 | intention of the court to expunge a record pertaining to more
3724 | than one arrest. This section does not prevent the court from
3725 | ordering the expunction of only a portion of a criminal history
3726 | record pertaining to one arrest or one incident of alleged
3727 | criminal activity. Notwithstanding any law to the contrary, a
3728 | criminal justice agency may comply with laws, court orders, and
3729 | official requests of other jurisdictions relating to expunction,
3730 | correction, or confidential handling of criminal history records
3731 | or information derived therefrom. This section does not confer
3732 | any right to the expunction of any criminal history record, and
3733 | any request for expunction of a criminal history record may be
3734 | denied at the sole discretion of the court.

3735 | (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
3736 | criminal history record of a minor or an adult which is ordered
3737 | expunged by a court of competent jurisdiction pursuant to this
3738 | section must be physically destroyed or obliterated by any
3739 | criminal justice agency having custody of such record; except
3740 | that any criminal history record in the custody of the

3741 department must be retained in all cases. A criminal history
 3742 record ordered expunged that is retained by the department is
 3743 confidential and exempt from the provisions of s. 119.07(1) and
 3744 s. 24(a), Art. I of the State Constitution and not available to
 3745 any person or entity except upon order of a court of competent
 3746 jurisdiction. A criminal justice agency may retain a notation
 3747 indicating compliance with an order to expunge.

3748 (a) The person who is the subject of a criminal history
 3749 record that is expunged under this section or under other
 3750 provisions of law, including former s. 893.14, former s. 901.33,
 3751 and former s. 943.058, may lawfully deny or fail to acknowledge
 3752 the arrests covered by the expunged record, except when the
 3753 subject of the record:

- 3754 1. Is a candidate for employment with a criminal justice
 3755 agency;
- 3756 2. Is a defendant in a criminal prosecution;
- 3757 3. Concurrently or subsequently petitions for relief under
 3758 this section or s. 943.059;
- 3759 4. Is a candidate for admission to The Florida Bar;
- 3760 5. Is seeking to be employed or licensed by or to contract
 3761 with the Department of Children and Family Services or the
 3762 Department of Juvenile Justice or to be employed or used by such
 3763 contractor or licensee in a sensitive position having direct
 3764 contact with children, the developmentally disabled, the aged,
 3765 or the elderly as provided in s. 110.1127(3), s. 393.063, s.
 3766 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
 3767 409.175(2)(i), s. 415.102(4), s. 916.106(10) and (13), s.
 3768 985.407, ~~or~~ chapter 400, or chapter 429; or

3769 | 6. Is seeking to be employed or licensed by the Department
3770 | of Education, any district school board, any university
3771 | laboratory school, any charter school, any private or parochial
3772 | school, or any local governmental entity that licenses child
3773 | care facilities.

3774 | Section 124. The Division of Statutory Revision of the
3775 | Office of Legislative Services shall prepare a reviser's bill
3776 | for introduction at a subsequent session of the Legislature to
3777 | conform the Florida Statutes to changes made by this act.

3778 | Section 125. This act shall take effect July 1, 2005.